



PLANNING COMMISSION REGULAR SESSION AGENDA

Monday, February 27, 2023 - 7:00 PM

City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

Commission Members: Bill Branigan, Bob Berman, Jim Patrick, Jim Hanselman, Gary East, Braulio Escobar, John Updike, and Marjorie Blom.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of February 13, 2023.

[Draft PC Work Session Minutes 02-13-2023](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of February 13, 2023.

[Draft PC Reg Session Minutes 02-13-2023](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

5. PUBLIC HEARINGS

5.A File 1-CP-23: Amendment to the "History" Element of the Comprehensive Plan (1886 Building).

[Memorandum](#)

[Attachment A - Draft Amendments to the History Chapter of the Newport Comprehensive Plan](#)

[Attachment B - Vicinity Map](#)

[Attachment C - Building Official Notice and Order, dated 3/17/22](#)

[Attachment D - Correspondence between City Building Official and Representatives of the Prior Owner's Estate \(various dates\)](#)

[Attachment E - Building Condition Evaluation, by Peterson Structural Engineer's, dated 6/21/22](#)

[Attachment F - Deed Vesting Ownership with Mo's Enterprises, Inc., dated 10/7/22](#)

[Attachment G - City Correspondence with Mo's Enterprises, Inc. \(various dates\)](#)

[Attachment H - Letter from Mo's Enterprises for 1/9/23 Planning Commission Meeting](#)

[Attachment I - Email from Director of the Lincoln County Historical Society, dated 2/23/23](#)

[Attachment J - Minutes from the 1/9/23 Planning Commission Meeting](#)

[Attachment K - State of Oregon Document titled "Planning for Historic Preservation," dated 2/18](#)

[Attachment L - Notice of Public Hearing](#)

[Dylan and Celeste McEntee Emails, dated 2/24/2023](#)

6. NEW BUSINESS

6.A Oregon Land Use Planning Fundamentals for Elected Officials and Planning Commissioners Training Opportunity.

[League of Oregon Cities Training Event](#)

6.B Communication from Commissioner Escobar - Oregonian Article Related to State Housing Legislature.

[Oregonian Article - Oregon Lawmakers Push Transformational Bipartisan Plan to Speed Housing Construction - dated 02-19-2023](#)

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers
February 13, 2023
6:00 p.m.

Planning Commissioners Present: Bill Branigan, Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and John Updike.

Planning Commissioners Absent: Gary East (*excused*).

PC Citizens Advisory Committee Members Present: Dustin Capri (*by video*).

PC Citizens Advisory Committee Members Absent: Greg Sutton (*excused*).

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Branigan called the Planning Commission work session to order at 6:00 p.m.

2. **New Business.**

A. **Discussion Draft of Newport Housing Production Strategies.** Tokos reviewed the Housing Production Strategies (HPS) project schedule; the process for developing the HPS; the project outreach; the takeaways from the community conversations; the key takeaways from the developer interviews. Tokos then reviewed the summary of potential actions that included supporting development of a regional housing entity focused on low- and middle-income housing development; growing partnerships with Community Land Trusts; implementing the Homebuyer Opportunity Limited Tax Exemption; supporting outreach and education to promote equitable housing access; reducing development code barriers for multifamily development; paying system development charges for workforce housing; and pursuing a growth management agreement with the County.

Berman asked if the 51 percent of the homebuyer opportunity limited tax exemption was the number of authorities or if it was 51 percent of the tax. Tokos thought it was the percentage of the overall tax. The city and the three other taxing entities would make up the aggregate amounts to get over the 51 percent threshold. Berman asked if height limits would be strictly for multifamily or if it would be a global change in height limits. Tokos thought they could work specifically tailor it to multifamily and have it only apply to a pitched roof. Dustin asked if this could also just be for R-3 and R-4 zones. Tokos didn't think they should limit it to those zones, and should make the allowance for it to apply to the W-2 water related zone as well. Capri asked if this could be for the I-4 zone. Tokos explained they generally didn't allow residential in industrial zones. The legislature had opened up the rules for affordable housing projects such that they were allowed in a number of areas the city wouldn't normally allow the. The city needed to keep this in mind as they went through the discussion. Tokos reminded the focus would be on facilitating multifamily. Capri asked if there was any rubrics on the affordability index. Tokos didn't think they would want to go there. He thought the challenge would be to find the justification for it because they needed to facilitate all forms of housing. The rational would be tricky when saying they only wanted to make an adjustment for a specific median area income group.

Tokos reviewed other actions that included on street parking credit; and making certain terrain related variances a nondiscretionary land use review that wouldn't need to go to the Commission for review. Escobar asked what the system development fees were collected were for. Tokos reported they were used as gap funding for infrastructure projects the city was doing. Many of the infrastructure projects benefited existing residents in Newport, but they were also being sized to accommodate growth in particular areas wherever work was occurring.

Tokos reviewed more actions that included lobbying the Legislature for more resources to support housing development and remove regulatory barriers to housing development; participating in the regional homelessness action plan; establishing a low barrier emergency shelter and warming center in Newport; adjusting the allocation of the Construction Excise Tax to support affordable housing development; and using urban renewal to support housing and infrastructure development. Escobar thought that in an earlier discussion they had talked about enhancing or expanding the urban growth boundary to help Newport address housing issues because they had enough buildable land inventory within the community. Tokos reported the discussion on the urban growth boundary was twofold. One was that they had plenty of land, and the second was that almost everything outside of the urban growth boundary was harder to serve than what was inside of it. There were rare cases where the city could cost effectively serve a property. The discussion for the urban growth boundary was that there really needed to be a development ready aspect to the discussion statewide, which wasn't happening.

Berman asked if a real estate transfer tax would mean it would cost more to buy a house. Tokos thought it would but said another way to look at it was that the costs would already be going up anyway. They could structure this such that the rates changed depending on how the value of the house escalated. Updike reported that San Francisco did this and they were successful in doing so.

Hanselman asked if the 15 percent of the Construction Excise Tax (CET) funds for the Oregon Housing and Community Services all came back to the city. Tokos confirmed they did, and noted that with the partnership they had with Proud Ground they were able to pull in a half a million dollars from the State that Newport, Lincoln City, and Lincoln County used to create down payment assistance grants. Hanselman hoped that the commercial and residential funds that were collected were going to be spent in Newport so that the people who were paying into the fees were getting the funds back to them. Tokos reminded the amount of the funds were small. They were collecting \$100,000 a year and was 15 percent of that was going to Oregon Housing Community Services. The last time they did down payment assistance grants they were able to offer around \$87,000 to the public. It would take years for that fund to generate enough funds for one or two down payment assistance grants. Tokos thought that the more likely outcome would be that periodically the city could use the fact that they had an excise tax to position themselves in a more favorable way with the Oregon Housing Community Services to be able to leverage additional state funds as part of a larger grant program.

Tokos asked if the Commission had any further comments. Escobar asked if they would be preparing the final report for the Housing Advisory Committee to review at their February 15th meeting. Tokos explained the Committee would be reviewing the action items and strategies. This would then be put in a final form that would be part of the online survey for public comment and part of the open house process. The Committee would then review the feedback they received and meet one final time to see if there were any adjustments needed before they wrapped things up. Berman asked how much of an administrative burden this would be. Tokos thought it depended on how it was implemented. Berman asked if this would fall in the next budget year. Tokos reported he hadn't done budget yet and didn't have an answer on this.

B. City Council Goals for Fiscal Year 2023/24. Tokos explained the review of the goals was a chance to give feedback to the Council. Berman asked why they reference the objectives in the current year and if these would be carried forward. Tokos explained these objectives were still priorities and hadn't gone away. Berman asked why the 2023/24 goals were the same objectives as the 2022/23 goals. Tokos explained this was what the City Manager's Office prepared for the Council's consideration. He assumed these were multiyear objectives and expected that many of these goals were going to happen in the coming years.

Tokos reviewed the new Council goals with the Commission that included the Airport solar farm with storage; relocating the fire training facility to the airport to make room for the improvements at the North Side pump station; insuring there was an ongoing site for the Farmer's Market within City Center as part of the strategic planning effort; creating a public information officer position; implementing a free day at the rec center once a month to promote the use of the facilities; and facilitating the development of a homeless shelter with a nonprofit organization to run the shelter.

Berman asked if a homeless shelter were to happen would they need to rework all the rules they put in place on where people could camp. Tokos thought this depended on the type of homeless shelter that was implemented. If it was an emergency shelter with a fully enclosed building he didn't think they needed to revisit it. Other forms of shelters, such as transitional housing, would get into the camping arena. Escobar thought the city should move cautiously with a shelter. He thought moving toward affordable permanent housing would be a better place to spend resources rather than a shelter. Tokos reported that there were no low barrier or emergency shelters in Newport. When temperatures were very cold, there were only a couple of nonprofits in town that helped pay for the homeless to stay in hotels because there was no shelter. This didn't work great and was expensive. Tokos noted that part of the interest was to fill in a gap that Newport didn't have. They needed a warming shelter at a minimum, and a low barrier shelter would be even better. Escobar questioned if there should be a permanent homeless camp, and reiterated that he thought housing might be a better use of resources.

Branigan asked if the Council would go back and review the 2022/23 goals as well as the new goals. Tokos noted this was what the City Manager's Office was trying to emphasize and show how hard it was to gain traction on a large number of goals. They would be adding goals that were bolded on the list and looking at carrying forward the 2022/23 items as needed.

C. Impact of Newport News-Times Change to Publication Dates. Tokos reviewed the current publication requirements for land use actions, and how the News Times recently went from a twice a week publication to a once a week publication. He noted that if the local jurisdiction lost their local paper they had to go to the next closest publication. If the News Times made another change and only published twice a month, it would put the city in a pinch on what they were required to do for legal publications. Tokos noted that not all land use publications were required, but they had been set up by the city's code. He reviewed the different types of land use processes and their publication requirements. Tokos reminded that street vacations and annexations were done by statute. He thought this might be a good time to adjust the city's procedures to at least not lock themselves into having to provide notice where they weren't required to by statute, because they couldn't control what the local paper did. Berman asked if it was legal to change the definition to say a newspaper or city website publication. Tokos thought the objective here was to not reduce the notices. He thought they should take a look at making an adjustment so they weren't locked into something that might not be here tomorrow. Updike asked if the state's interpretation of the term "publish" was about a physical paper. Tokos reported that for what he could tell it was. Updike asked if the state was considering changing this to say that something electronic would be sufficient. Tokos thought the state needed to be moving to something different. The statutes requires street vacations and annexations to be published in

consecutive weeks with the first notice having to be at least 14 days out from the hearing. This meant that the city would have to do three consecutive legal publications. Tokos thought the current media option and current publication times needed to be rethought.

Tokos would bring some options to the Commission to look at and work it into the work program. Patrick reminded there were running clocks of 120 days for land use processes to meet deadlines, and it was already difficult to have enough time to make decisions. Berman thought this was a good time to look at this. Branigan thought that one of the options they should consider should be about what to do if a newspaper ceased to exist. Patrick agreed and thought they should add considerations if it changed to only being published twice a month. He also thought this needed to be kicked up to the legislature.

2. Unfinished Business.

A. Planning Commission Work Program Update. No discussion was heard.

3. Adjourn. The meeting adjourned at 6:59 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
February 13, 2023

Planning Commissioners Present: Bill Branigan, Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and John Updike.

Planning Commissioners Absent: Gary East (*excused*).

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Branigan called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Branigan, Patrick, Hanselman, Berman, Escobar, and Updike were present.

2. **Approval of Minutes.**

A. **Approval of the Corrected Planning Commission Work Session Meeting Minutes of January 23, 2023.**

MOTION was made by Commissioner Berman, seconded by Commissioner Patrick to approve the previously approved Planning Commission Work Session meeting minutes of January 23, 2023 with minor corrections. The motion carried unanimously in a voice vote.

B. **Approval of the Planning Commission Regular Session Meeting Minutes of January 23, 2023.**

MOTION was made by Commissioner Berman, seconded by Commissioner Patrick to approve the Planning Commission Regular Session meeting minutes of January 23, 2023 with minor corrections. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **File 5-CUP-22: Final Order and Findings of Fact.**

MOTION was made by Commissioner Patrick, seconded by Commissioner Updike to approve the final order and findings of fact for File 5-CUP-22. The motion carried unanimously in a voice vote.

4. **Public Comment.** None were heard.

5. **Public Hearings.** At 7:02 p.m. Chair Branigan opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. None were heard. Branigan called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. File 5-Z-22 (Continuation): Public Hearing on Draft Ordinance No. 2202 – Short-Term Rental Work Group Recommendations:

Tokos reminded the Commission this was a continuation of the January 9, 2023 public hearing to consider the Work Group's recommendation. The Work Group recommended establishing a grace period for individuals or entities that purchase vacation rental properties so they can rent the property while working through the process to obtain a license; codifying the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements; tightening up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a 'strike' against the owner's short-term rental endorsement; and eliminating the option in the ordinance that allowed the City Council to adjust the cap on the number of available vacation rental licenses by resolution.

Opponents: Cheryl Connell addressed the Commission. She stated she was on the ad hoc committee that ended in 2018. Connell submitted written testimony at the first public hearing date and read through her letter. She didn't want the grace period to be approved and wanted all short-term rentals (STRs) that were both inside and outside of the zone to count toward the cap number of 176.

Branigan asked for deliberations by the Commissioners on the proposed changes to see what they wanted to include in the recommendation to the City Council.

Udike was comfortable with the package as it was presented.

Berman thought they should add a provision that made a criminal infraction be a strike, not just a civil infraction. He thought if a more serious incident occurred that was a criminal infraction it should be a strike against the STR. Escobar thought it was easier to identify a civil infraction than a criminal infraction and asked if it was necessary. Udike pointed out that there were things that happened that were criminal that weren't STR related. Berman thought criminal infractions on a property were something significant. Escobar questioned if something like an act of domestic violence that happened out of the blue at a STR was something the owner should be penalized for. Hanselman thought it seemed like neighbors had the most issues with people who were renting the residences, and it was seldom the owner that created an issue for the neighbors. He thought it didn't matter if it was civil or criminal. If it required intervention by law enforcement it should be a strike. Patrick pointed out that if a neighbor who didn't like a STR started a fight with their renter, and it became a criminal infraction, the owner would get punished. He thought they had enough problems with the civil infractions without adding the criminal. Patrick was concerned this would come back to bite them in the future. Tokos explained that civil was a real property related issue and easier to sync up with short term rental use and tie to the owner. Criminal was more about the individual, which the owner had no control over. Escobar asked how many STRs had strikes against them. Tokos didn't know the total number but thought it was a reasonably small number. Escobar thought they should leave this alone and only add civil infractions as a strike. Berman wanted it changed to civil and criminal.

MOTION was made by Commissioner Berman to change the wording from civil infraction to civil and criminal infraction. No second was heard. The motion failed.

Escobar reminded that the Work Group had two Council members on the group, a representative from the STR industry, a public member, and former Mayor Roumagoux. He didn't like their first recommendation to allow a new owner to operate before they got a license. Escobar noted an inspection needed to be done in order for a new owner to get license. He had a problem with businesses operating without a license, and thought they should allow the new owners to apply for a license before the property sale was complete. Berman pointed out that only the current owner could apply for a license. Tokos explained that new owners of STRs with transferable licenses would typically have the STR inspected when they came in to seek their own endorsement license. He reminded the previous owners had already had their STRs inspected and approved in order to obtain a license. Patrick pointed out the things that were inspected in the STRs generally didn't change over the years. Tokos explained the value of the inspections were so the new owners were educated of the importance of the safety measures to operate a STR. Escobar thought this reinforced the idea that they shouldn't operate until they had a license.

Branigan stated he supported the recommendations.

Hanselman reported he had similar issues that Escobar and Berman had. He didn't like the lack of a license and the strike issue. Hanselman liked the fact that the recommendation set a hard cap of 176 and removed the possibility of changing that number. He also thought they should count all the STRs toward the 176 regardless of if they were inside or outside the overlay. Hanselman stated that he would support the recommendations with some reservations.

MOTION was made by Commissioner Escobar, seconded by Commissioner Hanselman to move forward the recommendations with the exception of the grace period. Commissioners Patrick, Hanselman, Berman, Updike were a nay. Chair Branigan recused himself. The motion failed.

MOTION was made by Commissioner Patrick, seconded by Commissioner Berman to move the recommendations to the City Council as written. Commissioner Escobar was a nay. The motion carried in a voice vote.

Patrick wanted the City Council to take a look at this again in five years and have the Commission revisit it. Berman wasn't sure it was appropriate to pinpoint this to be done by the Commission. He thought the City Council should initiate another ad hoc committee to review this in another five years. Patrick didn't wanted to recommend another ad hoc committee review it. He thought the review should be to see if it needed another ad hoc committee.

MOTION was made by Commissioner Patrick, seconded by Commissioner Escobar to recommend the City Council review the effectiveness of the ordinance in five years to determine if it needed further review. Commissioner Hanselman was a nay. The motion carried in a voice vote.

Tokos thought this might be an opportunity for the Council to work the recommendation into their goals. He thought if it was on their list it would help keep it on their radar.

6. **New Business.** None were heard.

7. **Unfinished Business.** None were heard.

8. **Director Comments.** Tokos reminded there was reception for Jim Patrick on February 27th to say goodbye after 18 years on the Commission. Marjorie Blom had been appointed as a new Commissioner effective the next meeting. Hanselman extended his thanks for Jim Patrick's service.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:43 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

PLANNING STAFF MEMORANDUM
FILE No. 1-CP-23

I. Applicant: City of Newport. (Initiated pursuant to authorization of the Newport Planning Commission on January 9, 2023).

II. Request: A legislative amendment to revise the historic resource inventory in the Newport Comprehensive Plan to remove the preservation requirement for the “1886 Building” due to its deteriorated condition. The structure is located at 618 SW Bay Blvd. This amendment will allow for the building to be demolished, with the Lincoln County Historical Society being afforded an opportunity to coordinate documentation of its historic status before the structure is removed.

III. Planning Commission Review and Recommendation: The Planning Commission reviews proposed amendments to the Comprehensive Plan and provides a recommendation to the City Council. At a later date, the City Council will hold an additional public hearing prior to any decision on the amendments.

IV. Findings Required: The Newport Comprehensive Plan Chapter entitled “Administration of the Plan” (p. 288-289) allows amendments of this nature if findings can be made that there is (a) a significant change in one or more conclusions; or (b) a public need for the change; or (c) a significant change in community attitudes or priorities; or (d) a demonstrated conflict with another plan goal or policy that has a higher priority; or (e) a change in a statute or statewide agency plan. Revisions must comply with OAR 660-023-200(9) and applicable Statewide Planning Goals.

V. Planning Staff Memorandum Attachments:

- Attachment "A" Draft Amendments to the History Chapter of the Newport Comprehensive Plan
- Attachment "B" Vicinity Map
- Attachment "C" Building Official Notice and Order, dated 3/17/22
- Attachment "D" Correspondence between City Building Official and Representatives of the Prior Owner's Estate (various dates)
- Attachment "E" Building Condition Evaluation, by Peterson Structural Engineer's, dated 6/21/22
- Attachment "F" Deed Vesting Ownership with Mo's Enterprises, Inc., dated 10/7/22
- Attachment "G" City Correspondence with Mo's Enterprises, Inc. (various dates)
- Attachment "H" Letter from Mo's Enterprises for 1/9/23 Planning Commission Meeting
- Attachment "I" Email from Director of the Lincoln County Historical Society, dated 2/23/23
- Attachment "J" Minutes from the 1/9/23 Planning Commission Meeting
- Attachment "K" State of Oregon Document titled “Planning for Historic Preservation,” dated 2/18
- Attachment "L" Notice of Public Hearing

VI. Notification: Notification for the proposed amendment included notification to the Department of Land Conservation & Development (DLCD) in accordance with the DLCD requirements on January 10, 2023. Notice of the Planning Commission hearing was published in the Newport News-Times on February 17, 2023 (Attachment "L").

VII. Comments: A letter was received from the current property owner, Mo's Enterprises, Inc. (Attachment "H"), and an email was submitted by the Director of the Lincoln County Historical Society (Attachment "I"). No other comments were received.

VIII. Discussion of Request: This text amendment to the historic resource inventory in the Newport Comprehensive Plan removes the requirement that alterations to the 1886 Building at 618 SW Bay Blvd be subjected to Planning Commission review to assure the maintenance of its historic value. OAR 660-023-0200(9) sets out circumstances that must exist in order for a local government to take this step (Attachment "K"). One of those is when the local building official declares the historic resource, in this case a building, to be an imminent hazard to public safety with demolition being a course of action to abate the unsafe condition. If the amendment is approved, then the owner will be able to demolish the building. A map illustrating the location of historic resources within the City has also been updated, as the existing map does not include all of the inventoried sites. The specific changes are contained in the draft set of amendments dated January 10, 2023 (Attachment "A")

The 1886 Building is one of 16 sites that the City of Newport has identified as historically significant, and subject to Planning Commission review of alterations or modifications to assure maintenance of the historic value of the structure. It is listed as Site No. 12 in the historic inventory included in the History Chapter of the Newport Comprehensive Plan. As illustrated on an aerial image, the building is one of several commercial structures situated in close proximity to one another on the upland side of Bay Boulevard, near the intersection of Bay Boulevard and Fall Street (Attachment "B").

In response to a complaint regarding the condition of the building, Newport Building Official Joseph Lease inspected the premises and determined the structure to be a dangerous building under the ICBO Uniform Code for the Abatement of Dangerous Buildings adopted by the City pursuant to NMC 11.05.080(K). On March 17, 2022, Mr. Lease issued a notice and order to then owner Richard Welton advising him of the determination (Attachment "C"). The notice and order states:

"various significant structural deficiencies exist that could lead to partial collapse of the building to include, but not limited to the following: 1. The exterior siding is missing and structural wall framing is severely deteriorated due to water damage in various locations; 2. Exposed beams in the retail area that support the second floor are severely deteriorated and failing or have been altered without a building permit; 3. The east wall is listing out of plumb, particularly at the upper stories; and 4. The eyebrow appendage of the front 3rd level is deteriorated, etc.

Additionally, Mr. Lease notes that due to the general dilapidation of the structural elements of the building, an engineer should be consulted to review the condition of the building and to prepare a plan of remediation and repair of the structural force resisting systems. The notice and order was accompanied by photographs of the problematic areas, and Mr. Welton was given until April 17, 2022 to abate the nuisance by repair or demolition.

On April 7, 2022, Mr. Lease was contacted by Daniel Reynolds, with the law firm Saalfeld Griggs, who indicated that Mr. Welton had passed away and that one of his clients, a sibling of Mr. Welton, was only recently appointed by the Lincoln Circuit Court as Personal Representatives of the Estate (hereafter "Estate"). He further pointed out that Mr. Welton's siblings live out of state and were unfamiliar with the condition of the building. He asked for a 120-day extension to afford the Estate adequate time to move forward, a request that was granted by Mr. Lease via an email dated April 13, 2022. While the City did not post the building as unsafe to occupy, Mr. Reynolds indicated in his April 7th letter that the Estate had stopped all business and retail operations at the property and closed public access to the storefront. Correspondence between the Newport Building Official and representatives of the Estate is enclosed as Attachment "D."

On May 11, 2022, Karyn Kimball, PE, with Peterson Structural Engineers, Inc., contacted Mr. Lease to indicate that they would be inspecting the premises. This was followed by a report, dated June 21, 2022, outlining their observations as to the condition of the building (Attachment "E"). The report includes several

repair recommendations with suggested maximum repair timelines. It concludes that, at the time of the inspection, the building did not appear to be an imminent life safety concern but that it is not fit for habitation. This conclusion included several caveats, with the engineer's noting that their observations were limited to visually accessible areas, and that additional damage and/or deterioration is likely elsewhere on the premises. They further emphasized that recommended repairs should be performed within the specified timelines, and that failure to do so will lead to additional deterioration that could lead to the development of an imminent hazardous condition.

On July 5, 2022, an attorney for the Estate notified Mr. Lease that their client was entering into a purchase and sale agreement to sell the building to a neighboring property owner, and inquired as to what the next steps would be in this situation. Mr. Lease responded, in a July 7, 2022 email, indicating that the structural issues and repairs identified in the notice and order still needed to be addressed. He noted that since the engineer's report determined the building is not currently an imminent threat of collapse, the City would work with their client or a potential buyer on a mitigation plan and timeline for demolition or repair. In expectation of this, he granted an additional 90-day extension to October 17, 2022.

The neighboring property owner was Mo's Enterprises, Inc. and they officially took possession of the premises on October 7, 2022 (Attachment "F"). On December 14, 2022, they applied for and obtained a demolition permit from the City to remove the building and a neighboring shed. Because the property is listed on the City's historic inventory, any exterior alteration to a building other than a repair that restores the structure to its original character requires conditional use review by the Planning Commission (NMC 14.23.040). The Commission is charged with ensuring that proposed changes will not detract from or destroy the building or the architectural features that led to it being listed as significant. The conditional use rules do not provide for demolition of the entire structure. With that in mind, the demolition permit issued to Mo's Enterprises, Inc. was amended to limit the activities to the removal of asbestos siding, and asbestos laden materials from within the building. This will allow them to move forward with planned abatement work without incurring a financial penalty for rescheduling. Removal of asbestos laden siding (the only exterior work to be performed) qualifies as a repair, since the permitted work does not foreclose the possibility of the building being restored to its original character (NMC 14.23.030(A)). The modified demolition permit was issued to Mo's Enterprises, Inc. on December 20, 2022, and an email from myself to Celeste McEntee outlining the reason for the change was sent that same day. City correspondence with Mo's Enterprises, Inc. regarding this matter is enclosed as Attachment "G."

On January 9, 2023, the Newport Planning Commission met to consider whether or not it might be willing to (a) remove the 1886 building from the City's historic inventory given its deteriorated condition or (b) amend the City's Comprehensive Plan policies to allow demolition of historic buildings in certain circumstances with language being added to the Newport Municipal Code outlining parameters for when demolition may be warranted. The Commission reviewed sample codes relating to the demolition of historic structures from the cities of Salem, Bend, McMinnville, and Astoria. A representative from Mo's Enterprises, Inc. could not attend the meeting due to a scheduling conflict; however, they were able to submit a letter (Attachment "H"). In the letter, Mo's Enterprises, Inc. indicated that their original intent was to remodel the 1886 Building, but after having an engineering firm evaluate the structure they determined that it wasn't financially feasible with the cost exceeding \$2,000,000. They note that if they are allowed to move forward with demolition, their plan is to eventually build a new building that is consistent with the architectural character of the Bayfront. A new retail building would require a conditional use permit, where the Planning Commission would have an opportunity to weigh in on the design.

After considering its options, the Commission concluded that it would be reasonable to amend the Newport Comprehensive Plan to allow demolition of the 1886 Building given its deteriorated condition. A motion to that effect was made that same evening, initiating the legislative process (Attachment "J").

The City has a responsibility to coordinate with the Lincoln County Historical Society and State Historic Preservation Office on matters related to historic preservation (Policy 1, History Chapter, Newport Comprehensive Plan). The State Historic Preservation Office indicated that this is a local matter. Susan MG Tissot, Director, of the Lincoln County Historical Society conveyed that their organization agrees with the City's assessment of the building and its status, and that they would like the opportunity to photograph the building, and its interior, before it is demolished (Attachment "I"). They would also like to save anything of historical value that can be reasonably preserved (weight, size, presence of pests, condition, etc.). The draft amendments call for the Lincoln County Historical Society to be afforded this opportunity, and their correspondence has been forwarded to the owner.

IX. Conclusion and Recommendation: The Planning Commission should review the proposed amendment and make a recommendation to the City Council as to whether or not there is a public need for the change. As this is a legislative process, the Commission may recommend changes to the amendment if the Commission chooses to do so. If the Commission provides a favorable recommendation, then an ordinance will be prepared with the requisite findings for the City Council's consideration. The Council may also make changes to the proposal prior to, or concurrent with, the adoption of an implementing ordinance.



Derrick I. Tokos AICP
Community Development Director
City of Newport

February 24, 2023

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

HISTORY

Early History:

"Local Indian tribes were the first known residents of the Oregon Coast. Although they had many similarities, individual tribes occupied separate and sometimes separated areas. Thus, by the time the first explorers landed, the Indians had developed differing customs and varying levels of attainment in use of available natural resources, including well-developed religious and political systems. This was particularly true along the Oregon coast, where a temperate climate and plentiful food supplies, particularly anadromous fish, supported large groups living in relatively close proximity to each other.

"Juan Cabrillo, a Spanish explorer, is believed to have reached the southern Oregon Coast in 1542. By 1594, Spain was systematically exploring the northwest coast. In the late 1700's, Spain made thorough, systematic, and accurate surveys of the area, and claimed sovereignty over portions of the coast. Heceta Head, in the mid-Coast subarea, is named for one of the Spanish explorers.

"In March of 1778, Captain James Cook, in a search for the supposed Northwest Passage, made the first landfall of his voyage near Yaquina Bay, also in the Mid Coast subarea; and in 1787, Captain Meares identified points along the Oregon coast. Also about that time, an American, Captain Robert Gray, entered [the] Columbia River and explored its lower reaches, but made no claims of possession for the United States.

"In 1805, Captains Meriwether Lewis and William Clark, after leaving St. Louis, Missouri, in 1804, reached the Pacific Coast and wintered near the Columbia River. Following Lewis and Clark came increasing numbers of trappers, traders, and settlers, both Canadian and American. Fort Astor was established on the Columbia River by John Jacob Astor, an American; in 1821 it was acquired by Hudson's Bay Company and moved inland to a site in what is now the State of Washington. In 1825, the fort was renamed Fort Vancouver.

"By the middle 1830's, exploration was largely completed, Indian tribes and their complex social systems were experiencing severe adjustments to accommodate the increasing number of settlers, and disease was sharply reducing their numbers." ¹

The Pacific Northwest would never be the same.

¹ Pacific Northwest River Basins Commission, The Oregon Coast Level B Study of the Water and Related Land Resources (Oregon State Study Team, 1976), p. 15.

Recent History:

"The Yaquina Bay area was originally settled in the 1850's. Newport was named in 1866 and subsequently incorporated in 1882. Lack of access generally stifled any significant growth until the 1880's when construction on the railway was begun. The first train made the trip from Corvallis to Yaquina in 1885. The construction of the railway first to Elk City and then to Toledo significantly improved access and stimulated growth in the Newport area. Newport began to develop as a tourist community. Yaquina Bay was the only bay on the Oregon Coast connected to the Willamette Valley by railway. People coming to Newport would take the train from Albany and Corvallis to Elk City and down the Yaquina River on a ferry to Newport, docking on what is now Bay Boulevard.

"In the 1890's, Newport had a permanent population of approximately 120 people. In a brochure advertising the recreational attraction of the Newport area, promoters claimed to have had hotel and boarding house accommodations for 400 to 500 people plus unlimited camping space available.

"While Newport experienced relatively slow growth, the cities up the river involved in lumbering and other industries thrived. Steam boats and schooners often came in and out of the bay to pick up a load of lumber or Yaquina oysters, and deliver supplies to the settlers. Before it burned, Yaquina City had a population of over 2,000.

"Commercial fishing was also an important industry and provided settlers with food as well as a source of income.

"During World War I, the United States Government established the largest spruce mill in the world at Toledo, to provide wood for the construction of airplanes. This also served to stimulate growth in the Newport area.

"Newport continued to be the primary coastal tourist center for the Willamette Valley until the late 1920's when construction began on the Coast Highway and other areas of the coast were opened up to motorists.

"In 1936 the Yaquina Bay Bridge was built. With the building of other bridges and completion of the coast highway, the full length of the Oregon Coast was opened to travelers. While tourists no longer came exclusively to Newport, the construction of the coast highway and bridges allowed many more people to vacation on the coast and Newport continued to grow.

"With the growth of tourism, fishing, and lumbering and continued improved access after 1936, Newport began to grow fairly rapidly until the late 1950's and early 1960's. Then many of the mills in the area closed down, resulting in many families leaving the area. More recently with increasing numbers of people traveling the Coast Highway, Newport is again growing." ²

During the 1970's and 1980's, Newport experienced sharp swings in the local economy. Still dependent on the tourism, lumber, and fishing industries, the drastic fluctuations in energy costs, interest rates, and commodity prices severely affected the amount and type of growth.

Historical and Archaeological Resources:

The historical and archaeological heritage of the Oregon coast is irreplaceable both to the people of the coast and the entire State of Oregon. It offers present and future generations educational and scientific opportunities to better understand the ways, values, and traditions of the past coastal peoples. These historical and archaeological resources also have value to the coastal economy for their attraction to tourists and potential residents. Thus, it is important to inventory and protect those resources that have been identified as having historic or archaeological significance.

As the competition for land has grown, some of these sites have become desirable for other uses; they will convert to those uses unless they're protected by some method. The job of concerned citizens through their public officials is to determine which of these resources are too valuable to be lost and then to implement methods for their protection.

In determining historical or archaeological significance of districts, sites, buildings, structures, and objects, the following characteristics can serve as a guide:

Historic Sites:

- (a) Have character, interest, or value as part of the development heritage or cultural characteristics of the city, state or nation;
- (b) Are the site of an historic event with an effect upon society;

² City of Newport, Oregon, 1980-2000 Newport Comprehensive Plan, 1982.

- c) Are identified with a person or group of persons who had some influence on society; or
- (d) Exemplify the cultural, political, economic, social, or historical heritage of the community.

Archaeological Sites:

- (a) Have material evidence of human life and culture of the prehistoric past that may be recovered and studied; or
- (b) Are identified as potential archaeological sites by a recognized archaeological organization.

Considering the above criteria, and in view of the historical significance of Newport as one of the first coastal recreation communities, the Lincoln County Historical Society has identified the following sites within the Newport urban growth boundary as being of historical significance:

1.) Cape Foulweather Lighthouse/Yaquina Head Lighthouse:

Constructed by the U.S. Lighthouse service in 1862, this is the second oldest lighthouse on the Oregon Coast³ and was built to replace the light at the entrance to Yaquina Bay. Apparently, the lighthouse was originally to have been erected on Cape Foulweather, but the supplies were mistakenly landed at Yaquina Head, so it was built there. The Oregon Coastal Zone Management Association (OCZMA) has classified the site as being of natural historic significance, and it is marked with a Lincoln County Historical Society marker, as well as being listed on their map. The National Register of Historic Places also lists the site.

Owner: U.S. Bureau of Land Management.

Current Use: Automated lighthouse, wildlife refuge, and a scenic and natural area.

Conflicting Use: None.

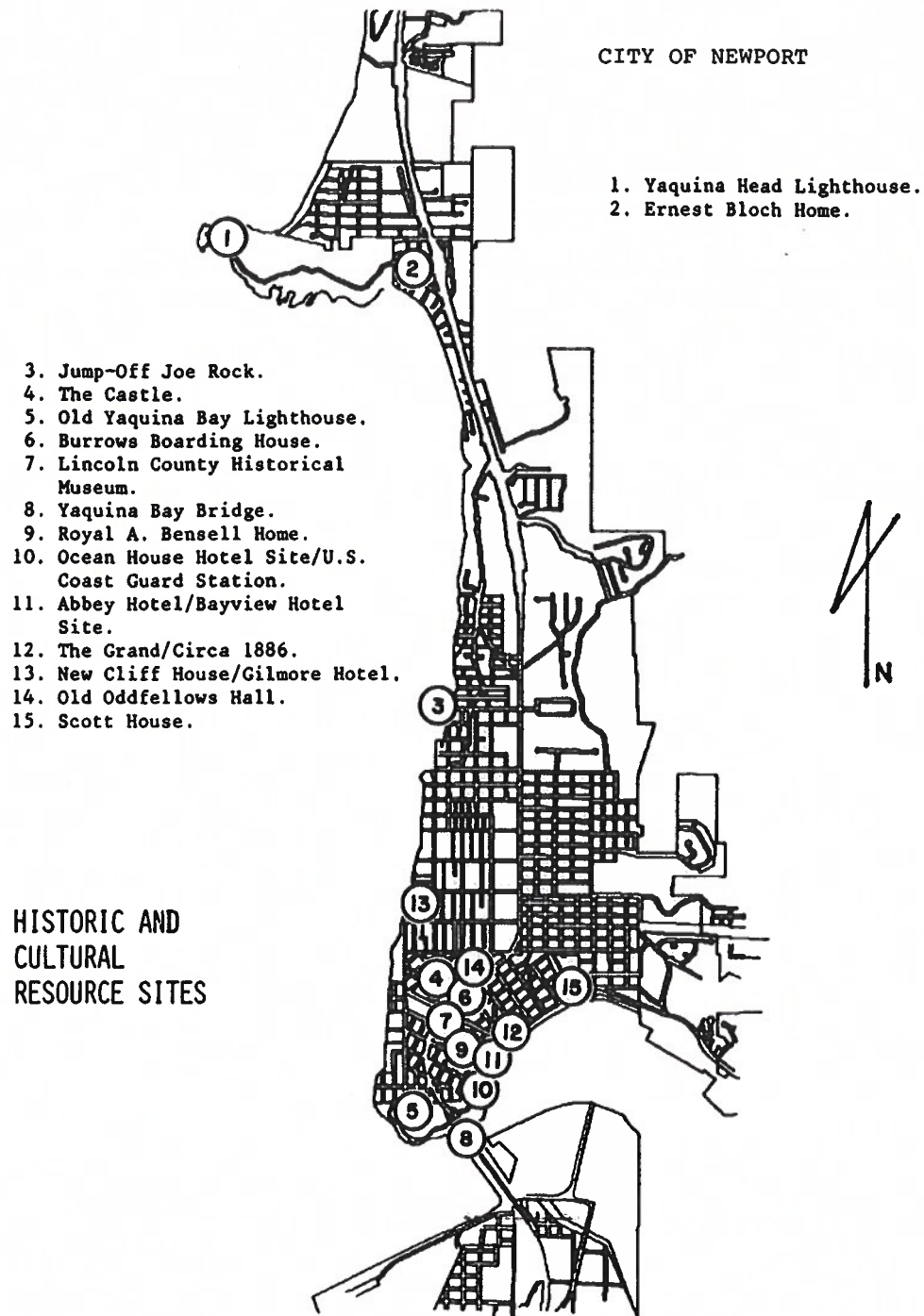
Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes (lighthouse only).

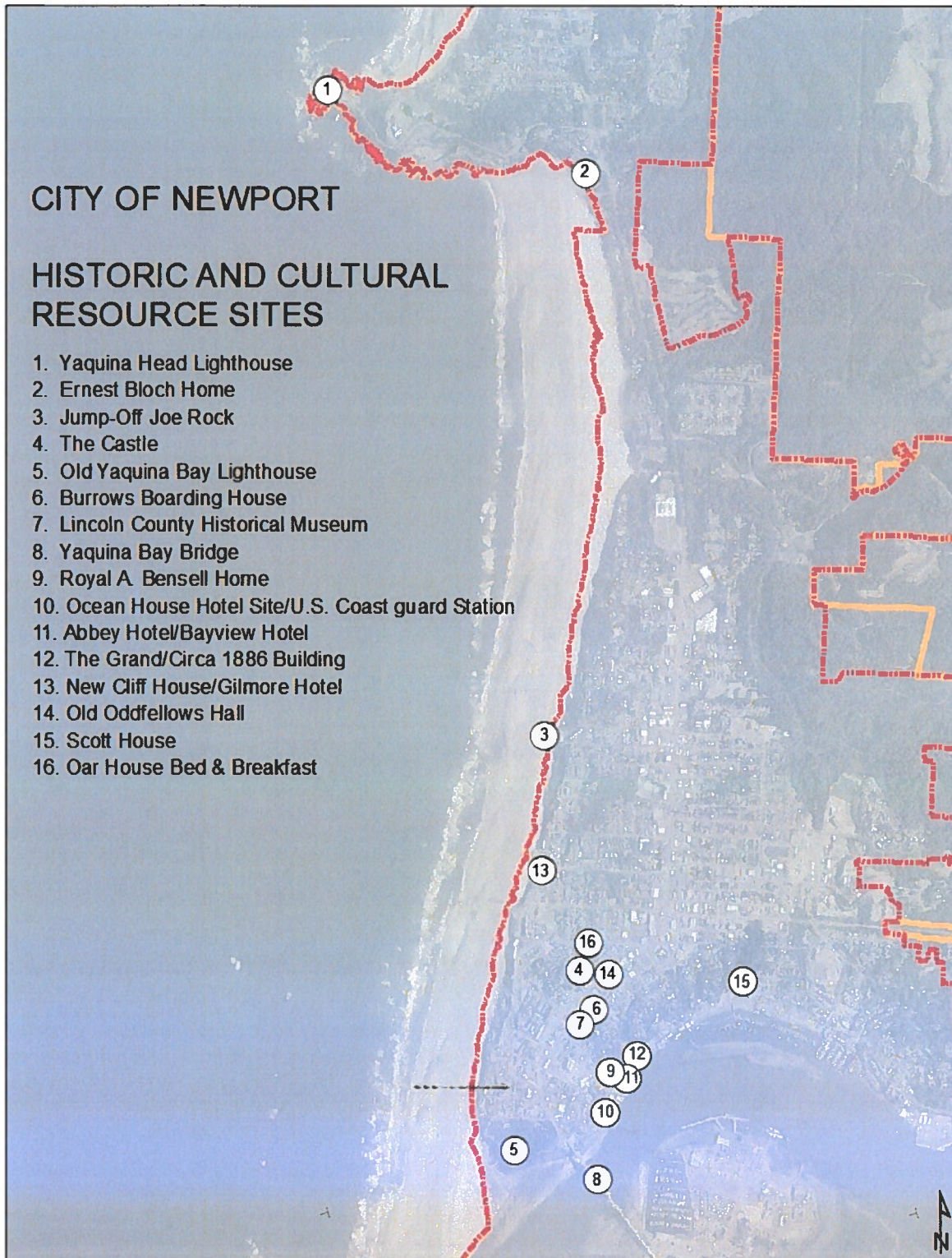
Conclusion: The site and lighthouse should be preserved. Other out buildings are not significant and are not worth the preservation effort. Any modification or alteration to the lighthouse or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the City of Newport Zoning Ordinance.

³ The first is the old Yaquina Bay Lighthouse (number 5 on this list).

GRAPHIC TO BE REPLACED



NEW MAP



2.) Ernest Bloch Home:

Ernest Bloch, a well-known composer and orchestra conductor, occupied this house from 1941 until 1959. It has been classified as being of historical importance to the nation by the OCZMA, and a bronze plaque mounted on a boulder located at the junction of Yaquina Head Lighthouse and Highway 101 marks the site.

Owner: First Baptist Church of Salem.

Current Use: None.

Conflicting Use: Zoned for retail commercial uses, there could be negative results for the site if development pressures become too great. If retail commercial uses are not allowed, unfavorable economic consequences could occur. If conflicting uses develop on or near this site, the loss of a cultural resource could be socially detrimental. No energy consequences will occur as a result of either allowing or not allowing the conflicting uses.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: Both the site and the Bloch Home have significance such that the Planning Commission shall review any proposal for modification or alteration to the structure to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

3.) Jump-Off Joe Rock:

Located north of Nye Creek off Coast Street, this large Nye Sandstone formation has eroded over the years to a small sea stack. Legend attributes the name to an Indian named Joseph who was chased to the site by men and was advised by a Siletz woman to "Jump off, Joe", which he did. OCZMA classifies the site as being of importance to Lincoln County, and the Lincoln County Historical Society distinguishes the site with both a marker and being shown on their map.

The Jump-Off Joe landslide area is an example of a detached mass sliding on a seaward-dipping bedding plane. Both north and south of Jump-Off Joe the heads of slides have moved

land forward several hundred feet and have cut off roads, damaged or destroyed houses, and disrupted the ground surface. More than 16 acres of land have been involved in the Jump-Off Joe landslide area. While this is a dramatic example of a catastrophic slide potential, because so much of Lincoln County's development is along the margin of the marine terrace where soft soil and weathered rock is being undermined by erosion at a rapid rate, catastrophic landslides are a potential hazard

in many areas.⁴ Thus, the city has concluded that while this particular slide area must be mentioned as a geologic hazard, it has not been found to be scientifically significant.

Owner: State of Oregon.

Current Use: Natural area.

Conflicting Use: None (site is in the ocean).

Site of Special Historic Significance: Yes.

Conclusion: State ownership protects the site. The inshore area is City of Newport park land, which contributes to site protection.

4,) The Castle:

Located on S.W. Alder Street just west of U.S. Highway 101, and now divided into three apartments, this house was built by Charles A. and Teresa Roper in 1912.⁵ The site is listed on the National Register of Historic Places.

Owner: Jeff Ouderkirk.

Current Use: Residential (apartments).

Conflicting Use: None (zoned for residential use).

Site of Special Historic Significance: No.

Building of Special Historic Significance: Yes.

Conclusion: The building is worth preserving. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure that its historic value is maintained consistent with the provisions contained in the Zoning Ordinance.

⁴ State of Oregon Department of Geology and Mineral Industries, Bulletin 81: Environmental Geology of Lincoln County, Oregon, 1973.

⁵ Charles Roper was the mayor of Newport from 1921-23.

5.) Old Yaquina Bay Lighthouse:

Built in 1871, this was the first lighthouse on the Oregon Coast. It is classified as being of historical importance to the nation by the OCZMA, and the Lincoln County Historical Society distinguishes the site on their map and with a marker. The National Register of Historic Places also lists the site. The lighthouse is on property owned by the Oregon State Parks Department, which maintains it as a museum. It is open to the public during the summer months.

Owner: Oregon State Parks Department.

Current Use: Museum.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: The building and site are worth preserving, and they are adequately protected by the Oregon State Parks Department. Any modification or alteration to the lighthouse or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

6.) Burrows Boarding House:

This building was originally located west of Highway 101 at the site of the Bank of Newport. Originally used as a boarding house and then as the Bateman Funeral Home, the Lincoln County Historical Society moved it in 1976 to S.W. 9th Street next to their museum to serve as a museum annex. Photographs in 1889 show the Queen Anne style building as a boarding house. OCZMA has rated the house as being of historical significance to the City of Newport.

Owner: Lincoln County Historical Society (the land is owned by the City of Newport).

Current Use: Museum.

Conflicting Use: None (zoned for public buildings).

Site of Special Historic Significance: No.

Building of Special Historic Significance: Yes.

Conclusion: The building and site are worth preserving, and they are adequately protected by both the Lincoln County Historical Society and the City of Newport. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

7.) Lincoln County Historical Museum:

A log building on S.W. 9th Street, the museum has one of the finest Indian interpretive exhibits on the Coast.

Owner: Lincoln County Historical Society (the land is owned by the City of Newport.

Current Use: Museum.

Conflicting Use: None (zoned for public buildings).

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: The building is a replica of a early log cabin and contains important historic exhibits and artifacts. Change, expansion, removal, or replacement of the building by the Historical Society, as needed, shall be allowed.

8.) Yaquina Bay Bridge:

Completed in 1936 after two years of construction, the bridge replaced the Yaquina Bay Ferry and was a key portion of the coast highway system. The bridge led to development of the business district along Highway 101 in Newport, dramatically increasing tourism on the Oregon Coast. OCZMA has categorized the bridge as having importance to the state.

Owner: State of Oregon.

Current Use: Bridge.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Structure of Special Historic Significance: Yes.

Conclusion: If necessary to expand the bridge, it should be in the same corridor. Any expansion shall preserve the bridge silhouette by locating on the west side. Any modification or alteration to the bridge or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

9.) Royal A. Bensell Home:

Located at 757 S.W. 13th Street, this home was built in 1885 by Royal A. Bensell, an infantryman to the Grande Ronde Reservation in the Civil War. He was a co-owner of a steam sawmill at Depot Slough and was involved in direct lumber shipments to San Francisco. Bensell served as a representative to the State Legislature from Western Benton County from 1868-1882, and was justice of the peace and collector of customs for the Yaquina District in the 1880's. Mr. Bensell also served as mayor of Newport from 1908-10, 1915-17, and part of 1921. The OCZMA notes this home as being of historical importance to the county.

Owner: Dr. Russell Guiss.

Current Use: Residence.

Conflicting Use: Yes.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No.

Conclusion: The structure has undergone wholesale structural and aesthetic changes during the last 25 years through the efforts of the current owners, Dr. and Mrs. Russell Guiss. These alterations have irrevocably altered the original appearance and character of the house by commingling contemporary building materials and designs with the original.

10.) Ocean House Hotel Site and U.S. Coast Guard Station:

The Ocean House Hotel was built in 1866-67 by James R. Bayley⁶ and Samuel Case. Case, the proprietor, came to the area as an infantryman to serve at the Siletz Reservation. The present U.S. Coast Guard Station is located on the Ocean House Hotel Site and was built in about 1935. The OCZMA has listed the site as having historical importance to the county. A Lincoln County Historical society marker identifies the Ocean House site, and it is shown on their map.

Owner: U.S. Coast Guard.

Current Use: Coast Guard Station.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

⁶ Mayor of Newport from 1884-85, 1892-93, and 1897-99.

Conclusion: The historic marker for the site should be maintained, as should the typical 1930's Coast Guard style. This is a significant anchor to the original town site. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

11.) Abbey Hotel/Bayview Hotel Site:

Peter Morton Abbey was one of Newport's pioneer settlers in 1867. He built the Bayview Hotel in 1871 on the waterfront and moved it back against the hill in 1911. The hotel was torn down in 1935. The Abbey Hotel, built in 1911 at 704 S.W. Bay Boulevard, operated until it burned in 1964. It was a three-story wooden building with 45 rooms. George Bahr, the owner in 1964, replaced the hotel with a restaurant-bar called "The Abbey," which was subsequently torn down for a parking lot in 1986. The OCZMA has recognized the site as having historic importance.

Owner: City of Newport.

Current Use: Public parking lot and rest rooms.

Conflicting Use: Yes (zoned for water-related uses).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No.

Conclusion: Preservation of neither site is required. A sidewalk marker may be appropriate.

12.) The Grand:

This two and one-half story wooden structure at 618 S.W. Bay Boulevard is one of the oldest structures, if not the oldest, on the Newport waterfront. It was built in 1886 as an Oddfellows or Masonic Lodge in Olsonville (about a half a mile up the bay from its present location) and was established as a boarding house. It is now known as "Circa 1886," a gift shop. The building has historic significance to the county according to the OCZMA.

Owners: ~~Richard C. Wilton~~ Mo's Enterprises, Inc.

Current Use: ~~Gift shop~~ Vacant.

Conflicting Use: While the building's location provides much of its historical significance, the designation of the area for water-related uses could pose a conflict. ~~Because the~~ The building is one of the city's few historic buildings, and is in poor condition as a result of years of deferred maintenance while it was operated as a gift shop by the previous owner. It does not appear practicable for the building to be

~~repaired or moved; however, there may be an opportunity for the Lincoln County Historical Society to document the value to the structure to the community before it is removed. its loss would have adverse social consequences. Its preservation would not have an adverse economic impact, as long as the character of the bayfront remains a mix of tourist and water-related uses. No significant energy consequences are likely to occur as a result of the preservation of this building or the identified conflicting uses.~~

Site of Special Significance: No.

Building of Special Significance: Yes.

Conclusions: ~~The Planning Commission review of alterations or modification of this building will assure maintenance of historic value of the structure. The provisions contained in the Zoning Ordinance shall govern any review. Due to the poor condition of the building, preservation is not required. The Lincoln County Historical Society should be afforded an opportunity to document the historic significance of the building prior to it being demolished.~~

13.) New Cliff House/Gilmore Hotel:

Located on the ocean at the end of N.W. 3rd Street, this hotel was completed in 1913 by W.D. Wheeler. He and Peter Gilmore traded businesses in 1921, Gilmore taking over the hotel and Wheeler taking on Gilmore's chicken ranch outside of town. The Gilmore is the last of the turn-of-the-century oceanfront resort hotels in Newport still standing. Completely restored, it is currently operating as the Sylvia Beach Hotel.

Owner: Sylvia Beach Hotel, Inc.

Current Use: Hotel.

Conflicting Use: No (zoned for tourist commercial).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: The structure is restored. The Planning Commission shall review any future alterations to assure the maintenance of the historic value. Such review shall be consistent with provisions contained in the Zoning Ordinance.

14.) Old Oddfellows Hall:

Located on the southwest corner of S.W. Hurbert Street and U.S. Highway 101, this large wooden frame structure was completed in 1912. Besides the Oddfellows, it has also housed Newport's U.S. Post Office and various retail businesses. A restaurant is currently in operation there.

Owner: Charles Thompson.

Current Use: Restaurant and other retail businesses.

Conflicting Use: Yes. The building has been substantially altered. The area is zoned for retail commercial uses but has a parking problem.

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: Neither the site nor the building should be preserved.

15.) Scott House:

Located on S.E. Bay Boulevard across from Port Dock 5, this house was built in 1928 by General Ulysses S. Grant McAlexander, a World War I veteran known as the "Rock of Marne." The house was built on the foundation of Dr. James R. Bayley's mansion and has been partially rehabilitated. Since this house is not the original structure and has been altered, it has no special historic significance. The site itself has been significantly altered in anticipation of commercial development.

Owner: Magna Corporation.

Current Use: Restaurant and lounge (Gracie's at Smuggler's Cove).

Conflicting Use: Yes (zoned for high density residential).

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: The building and the site are not significant and not worth any preservation effort.

16.) Oar House Bed and Breakfast:

The Oar House Bed and Breakfast is located at 520 S.W. 2nd Street. Built in approximately 1900 for Mrs. C.H. Bradshaw as "The Bradshaw," a rooming house, it has functioned in that capacity for 75 of its 88 years. On the corner of S.W. 2nd and S.W. Brook Streets, it is an L-shaped cross-gabled Craftsman style building. Although altered by the addition of some auxiliary structures, wall openings, and room partitions, the building retains most of its original fabric and function. Photographs dated 1907 and 1910 indicate little change to the main structure configuration except for the addition of the cupola in 1981.

Owners: Jan G. LeBrun.

Current Use: Bed and breakfast and residence.

Conflicting Use: No (zoned for high density residential and is developed residentially).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No (building has been substantially altered).

Conclusion: The building and site do have the potential to be of special historic significance, but alterations to the building have compromised the historic quality. This site will need to be looked at closer to make a final determination of its significance.

Besides the above sites and structures, the bayfront and the Nye Beach areas are two potential historic districts. No specific study and determination has been made, but the importance of those two areas for their historic significance suggests that the city should explore the possibility of designating them as historic districts.

As for archaeological sites, all of the Newport Planning area falls within the "high density" archaeological site density classification shown in the 1976 Lincoln County Statewide Inventory of Historic Sites and Buildings⁷. In addition, the state archaeologist has said that areas as far as five miles upstream on all streams and rivers emptying into the ocean are archaeological sensitive areas.

⁷ State of Oregon Department of Transportation (Parks and Recreation Division), State of Oregon Inventory of Historic Sites and Buildings, 1974.

Conclusions:

- 1.) The Newport planning area contains several historic sites and buildings and two potential historic districts.
- 2.) Many of the sites and buildings are worth preserving, whereas some alterations and remodels have destroyed the historic qualities.
- 3.) While there are no conflicting uses among the sites currently listed, the inventory of historical-cultural sites developed thus far does contain several structures that are in precarious physical condition. Those sites may also be subject to a use change that could diminish their historic value.
- 4.) All of the Newport planning area is archaeologically sensitive.

GOALS/POLICIES

HISTORY

Goals: To maintain and preserve identified historic and cultural resources, to encourage private and public efforts aimed at preservation, to provide public information concerning the city's historic resources, and to provide public access to important historic-cultural sites where appropriate and possible.

Policy 1: The City of Newport shall work with the Lincoln County Historical Society and the State Advisory Committee on historic preservation, as well as with local residents to maintain and update the inventory of historically and culturally significant resources.

Policy 2: The City of Newport shall cooperate with the Lincoln County Historical Society and the Chamber of Commerce in the establishment of historical markers and information to increase awareness of Newport's historic background.

Policy 3: The City of Newport may consider the creation of historic districts, property acquisition, ordinance provisions, tax benefits, and other incentives to facilitate the preservation of an historic area.

Policy 4: The City of Newport shall encourage property owners making alterations to identified historic structures to maintain their historic value. The Planning Commission shall review all proposals for modification or alteration to structures designated in the inventory as having historical significance. In determining whether or not the proposal complies with this policy, the following shall be considered by the Planning Commission in their review:

- (a) Whether or not the proposed use or alteration is compatible with the historic nature of the structure.
- (b) Whether or not the proposed alteration to the exterior of the structure will maintain its historic value.

Policy 5: The bayfront and the Nye Beach areas will be considered for historic district status. The Goal 5 analysis and possible ordinance development will be completed by the next regularly scheduled periodic review.

Policy 6: The City of Newport shall protect Mike Miller Park and allow conflicting uses as outlined in this section.



City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0629
Fax: 1.541.574.0644

1886 Building at 618 SW-620 SW Bay Blvd Vicinity Map

Image Taken July 2018
4-inch, 4-band Digital Orthophotos
Quantum Spatial, Inc. Corvallis, OR

0 25 50 100 Feet





**City of Newport
Community Development Department**

169 SW Coast Hwy, Newport, Oregon

Ph: 541.574.0629 Fax: 541.574.0644

<http://newportoregon.gov>

Notice and Order

Address/Location of Violation: 618-620 SW Bay Blvd Tax Lot No.: 11-11-08-CA-05100-00

Owners Name: Richard C Welton

Current Tenant: Old Bayfront Bazaar

Mailing Address: PO Box 44, Depoe Bay, OR 97341

618 SW Coast Hwy, Newport, OR 97365

Please be advised that pursuant to the City of Newport Municipal Code (NMC), Section 11.05.080 I, you are hereby notified that the above referenced building has been determined to be a **Dangerous Building** for the reasons described below:

Uniform Code for the Abatement of Dangerous Buildings, Section 302, Subsections 5, 7, 8, and 10. Various significant structural deficiencies exist that could lead to partial collapse of the building to include, but not limited to the following: 1. The exterior siding is missing and structural wall framing is severely deteriorated due to water damage in various locations; 2. Exposed beams in the retail area that support the second floor are severely deteriorated and failing or have been altered without a building permit; 3. The east wall is listing out of plumb, particularly at the upper stories, 4. The eyebrow appendage of the front 3rd level is deteriorated, etc.

The following permits are required: ☐ Demolition ☒ Building ☐ Electrical ☐ Plumbing ☐ Mechanical

☐ Other: _____



Plans Required _____

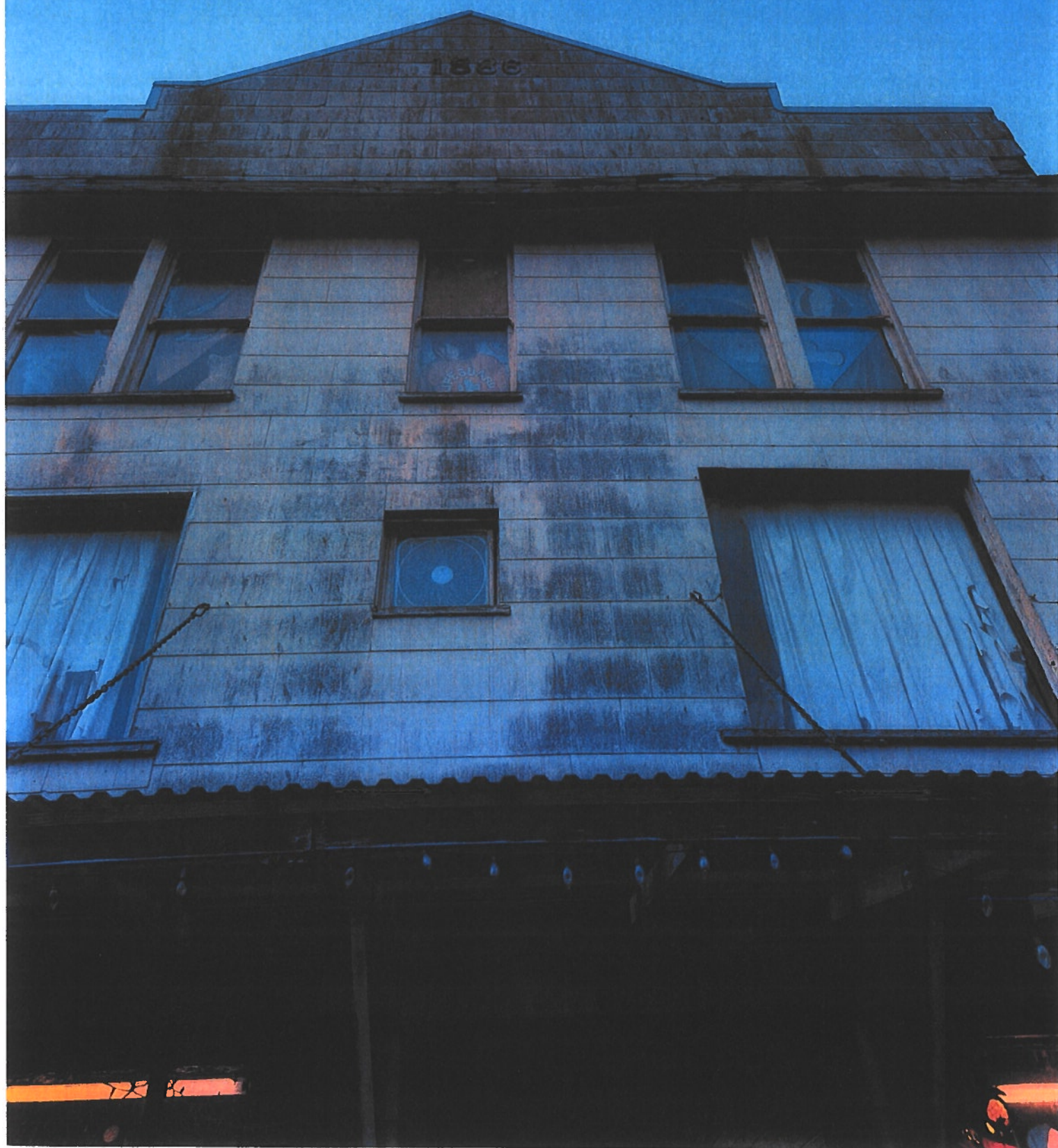
Additional Comments: Due to the general dilapidation of the structural elements of the building an engineer should be consulted to review the condition of the building and to prepare a plan of remediation and repair of structural force resisting systems. The exterior siding is in disrepair allowing water intrusion resulting in structural damage.

You are hereby ordered to abate this public nuisance by repair or demolition by April 17, 2022. Failure to comply with this Order is an Infraction punishable by a Civil Penalty not to exceed \$1000 per violation per day. If you wish to appeal this Order a written appeal, stating the grounds therefore and the redress sought, must be submitted to the Department within 15 days of the date of this order.

Building Official: Joseph Lease Signature: [Signature] Date: March 17, 2022

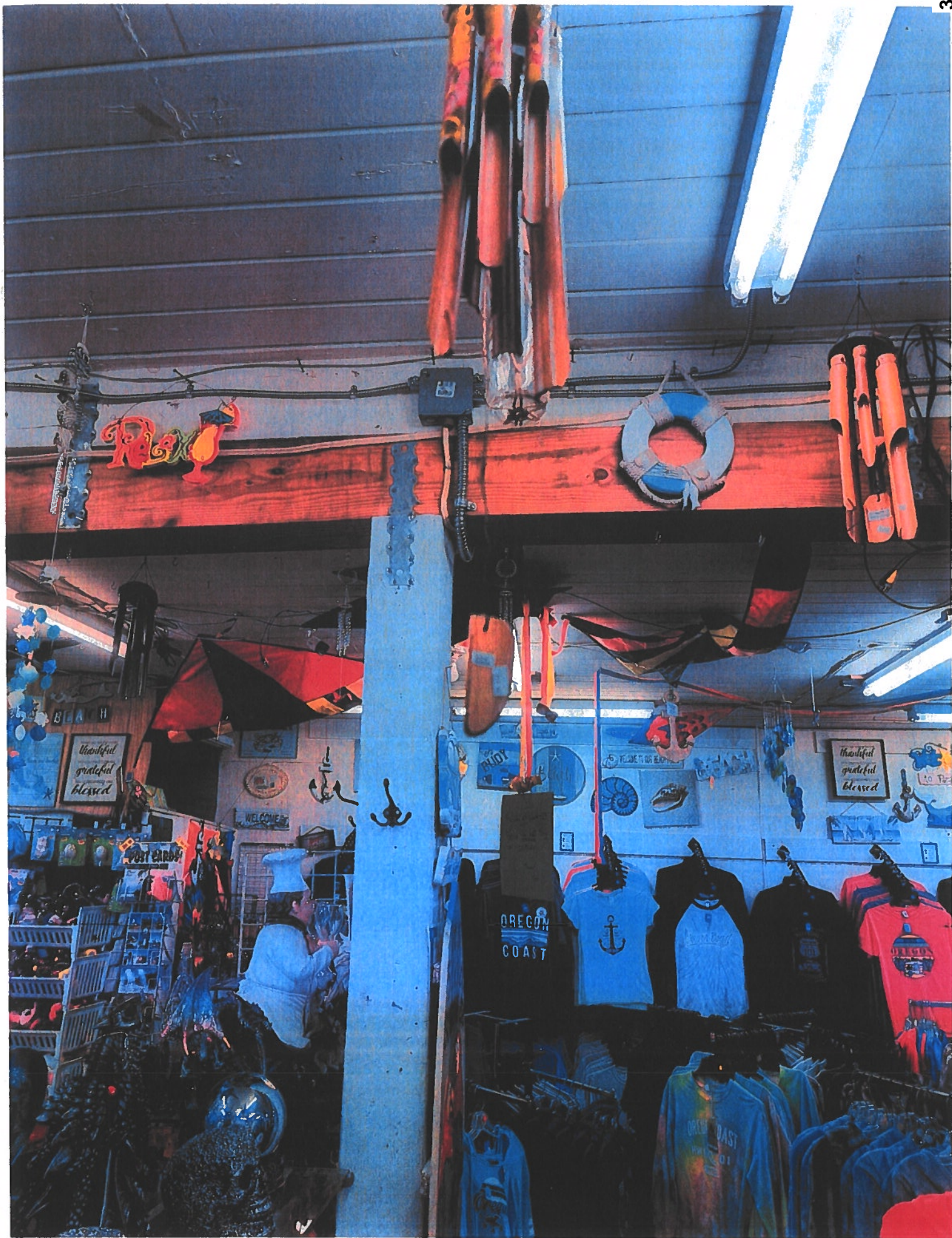
Phone: (541) 574-0627

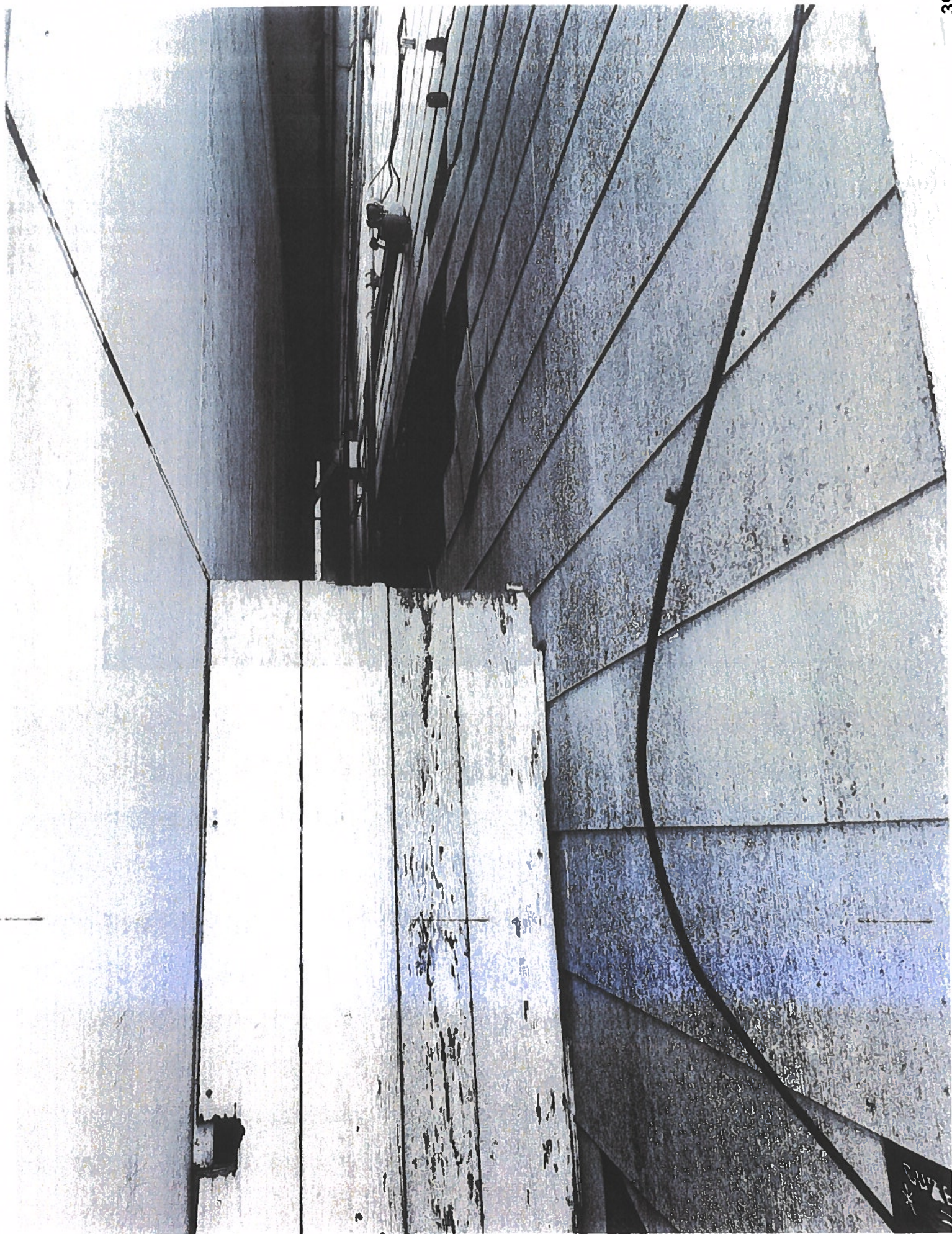
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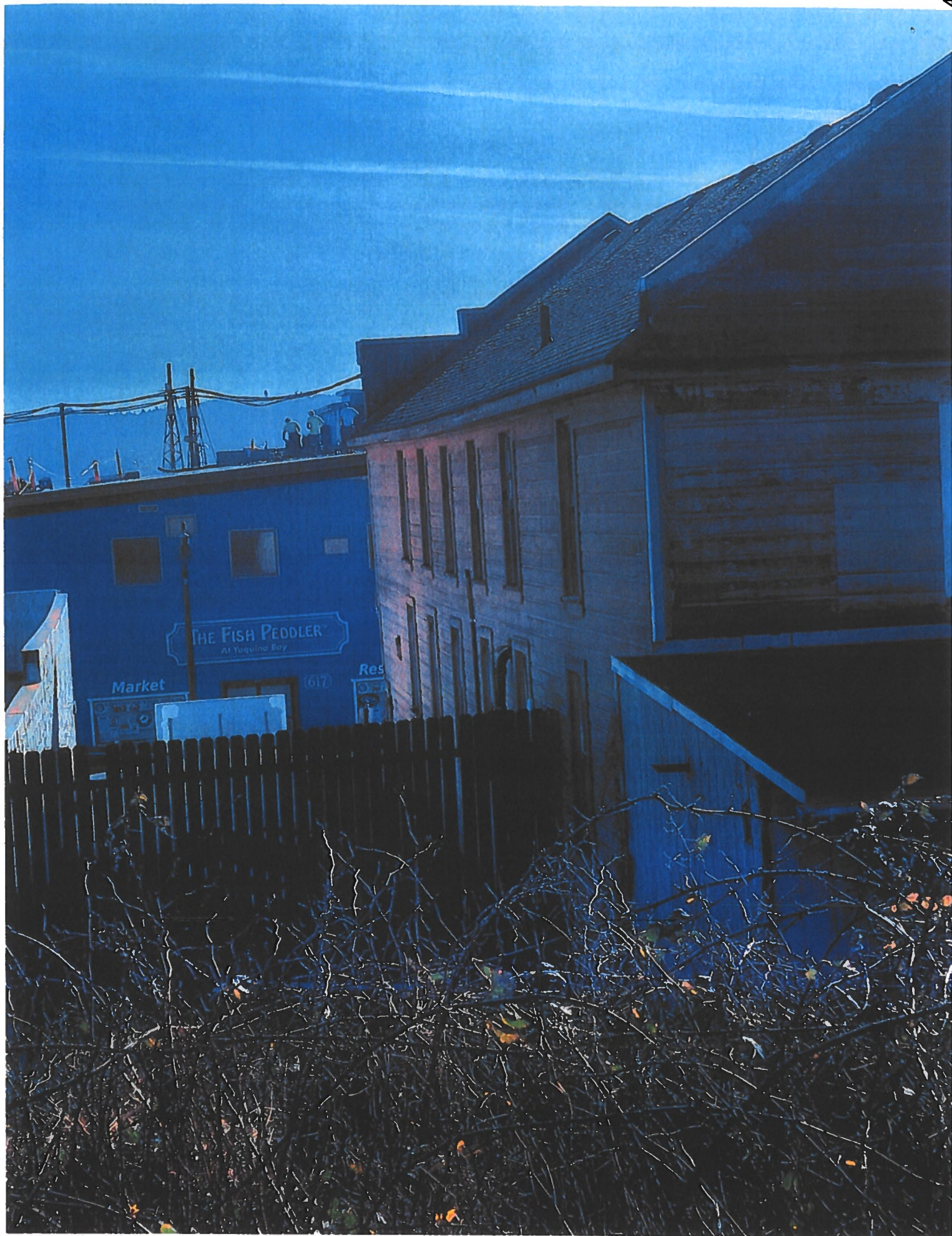


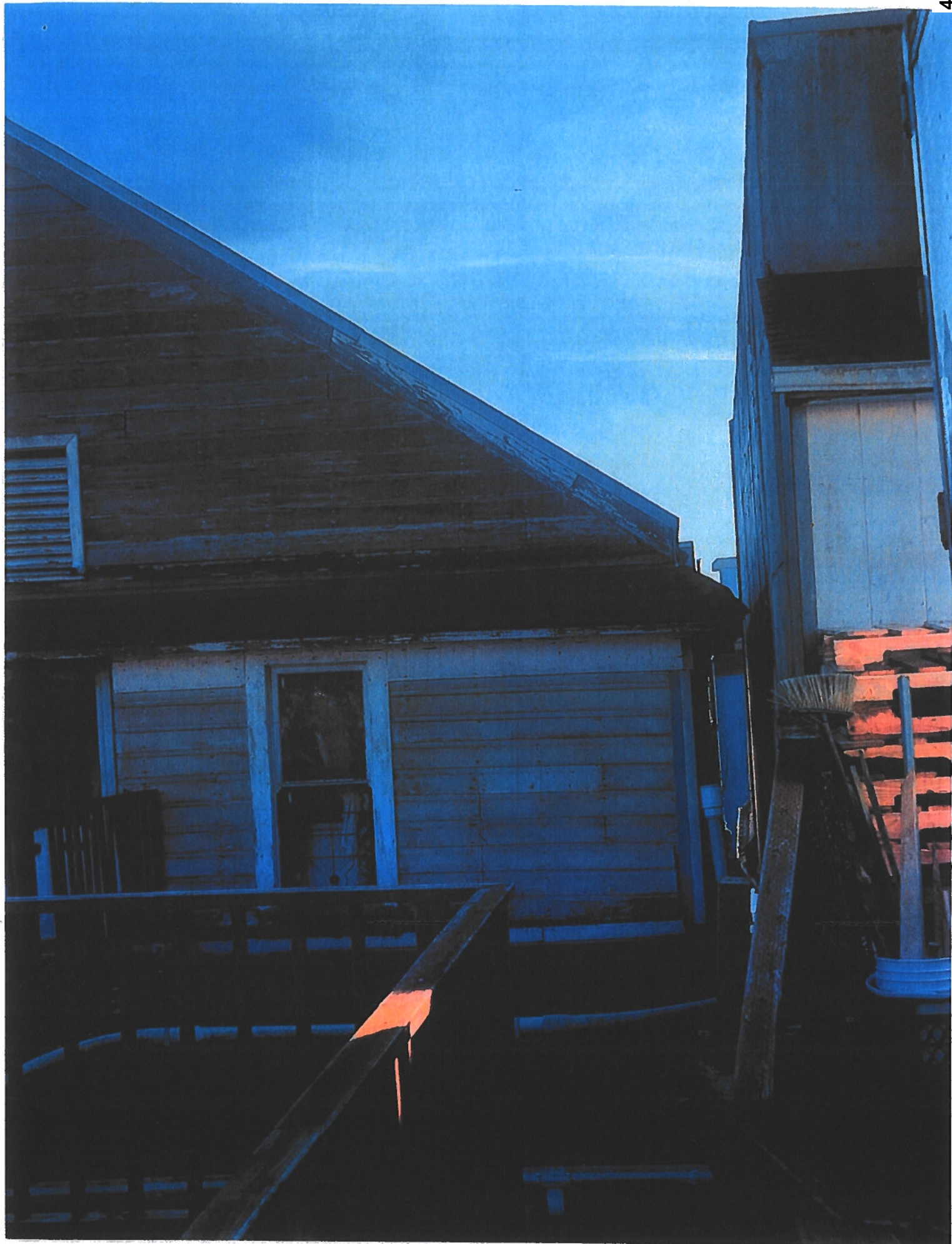
















April 7, 2022

VIA FACSIMILE: (541) 574-0644

Original to follow via first class mail

City of Newport
Community Development Department
Attn: Joseph Lease, Building Official
169 SW Coast Hwy
Newport, OR 97365

RE: REQUEST FOR EXTENSION TO COMPLY WITH NOTICE AND ORDER

Property Address: 618-620 SW Bay Blvd., Newport, OR
Former Property Owner: Richard C. Welton
Our File No.: 41615-00001

Dear Mr. Lease:

This office represents Bruce Welton and Jane McClellan, as Personal Representative of the Estate of Richard C. Welton (the "Estate"). Our clients provided us with a copy of the City of Newport's Notice and Order dated March 17, 2022 (the "Notice") concerning the storefront located at 618-620 SW Bay Blvd., Newport, OR 97365 (the "Property"). For the reasons discussed below, our clients respectfully request an extension of time to comply with the Notice.

Ms. McClellan and Mr. Welton are the siblings of Richard Welton, the former owner of the Property. The Estate now holds title to the Property. After suffering from a debilitating illness for five years, Mr. Welton passed away a few months ago. A few days ago, on March 31, 2022, Ms. McClellan was appointed as Successor Personal Representative of her brother's Estate, in Lincoln County Circuit Court Case No. 22PB01129. Ms. McClellan resides in Washington and Mr. Welton lives in Texas. Until they received the Notice, our clients were unfamiliar with the condition of the Property and the concerns identified by the City.

Park Place, Suite 200
250 Church Street SE
Salem, Oregon 97301

Post Office Box 470
Salem, Oregon 97308

tel 503.399.1070
fax 503.371.2927

www.sglaw.com

April 7, 2022
Joseph Lease
Page 2

The Estate takes this matter very seriously. Promptly upon receiving the Notice, the Estate took reasonable steps to protect the public and employees. In particular, the Estate immediately stopped all business and retail operations at the Property and closed public access to the storefront. All employees have been transferred to other locations and all entry points have been locked to prevent improper access. The Estate is actively removing inventory from the store and transferring it to other locations, upon completion of which there will be no further activity at the Property.

In addition, the Estate is diligently working to address the issues listed in the Notice, including engaging one or more contractors and/or engineers to evaluate the Property and develop a corrective action plan. However, as you may know, it is difficult to engage qualified professionals and complete this work, especially on short notice. This issue is compounded by our clients' obligations to comply with the court probate procedure when dealing with Estate assets, which often slow things down. In addition, as noted above, our clients were not aware of these issues until they received the Notice very recently. It will take some time to familiarize themselves with the Property and determine the best course of action that complies with both the Notice and the Court's probate rules. Nonetheless, the Estate is committed to fully resolving this situation and doing so as soon as practicable.

In light of these circumstances, the Estate respectfully requests an extension of time to comply with the Notice and resolve the issues at the Property. At this time, we believe an extension of 120-days will afford the Estate with adequate time to move forward. This request is reasonable, given that the Estate has stopped all commercial activity and public access to the Property and it will take time to engage the professionals necessary to develop a plan that will safely and effectively respond to the issues in the Notice. Given the pending deadline of April 17, 2022, we respectfully ask for a response to this request as soon as possible. My office will also follow-up with you via a phone call.

We appreciate the City's consideration of this request and attention to this matter. If you have any questions or would like to discuss further, please let us know.

Sincerely,

DANIEL S. REYNOLDS
dreynolds@sglaw.com
Voice message #326

DSR:klt
cc: Clients (via email only)

Joseph Lease

From: Joseph Lease
Sent: Wednesday, April 13, 2022 11:13 AM
To: 'Garrett T. Urrutia'
Cc: Derrick Tokos
Subject: RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Garret,

I would just add that if the Engineer finds any imminent hazards that he/she also provide recommendations on temporary measures to mitigate the hazards, and that the Estate takes appropriate steps to implement the mitigation measures.

Thanks,

Joseph Lease, Building Official
 Community Development Department
 169 SW Coast Highway
 Newport, Oregon 97365
j.lease@newportoregon.gov
 (541) 574-0627

From: Garrett T. Urrutia <gurrutia@sglaw.com>
Sent: Wednesday, April 13, 2022 10:14 AM
To: Joseph Lease <J.Lease@NewportOregon.gov>
Cc: Daniel S. Reynolds <DReynolds@sglaw.com>; Kayla Franz <KFranz@sglaw.com>
Subject: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

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Mr. Lease,

Thank you for the phone call this morning. As we agreed, I am following up that conversation with this email memorializing what we discussed.

The city is concerned about the structural integrity of our client's building. You specifically mentioned the east side wall is out of plum and the building is leaning. You further expressed that the neighboring property is concerned that if our client's building were to fall, it could potentially damage the neighboring building.

I expressed to you that our client is making efforts to comply with the City of Newport's Notice and Order dated March 17, 2022, but is requesting additional time to engage professionals to develop a corrective action plan.

Ultimately, you agreed to grant an extension of 120 days for our client to comply with the Notice and Order. You further agreed that a complete corrective action plan would not be necessary, so long as our client engages the services of an engineer, who prepares and submits to you a structural integrity analysis. You specified that a complete structural

analysis would not be necessary, but the engineer's assessment must address whether there is a potential that the building could collapse and a determination of whether the building has a foundation, and if so, its condition.

If I failed to mention or misstated any of the terms that we discussed or agreed to, please let me know.

Otherwise, if you have any other questions, please don't hesitate to contact our office.

Thank you,

Garrett Urrutia

Lawyer - Business Litigation & Employment Law



Saalfeld Griggs

Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301

office: 503.399.1070 | fax: 503.485.5641

[Email](#) | [Web](#) | [Bio](#) |

Paralegal | Kayla Franz | kfranz@sglaw.com

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Joseph Lease

From: Garrett T. Urrutia <gurrutia@sglaw.com>
Sent: Wednesday, April 13, 2022 11:20 AM
To: Joseph Lease
Cc: Derrick Tokos; Daniel S. Reynolds; Kayla Franz
Subject: RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Joseph,

Thank you for the follow up and the clarification. We will pass that along to our client as well.

Thanks,

Garrett Urrutia

Lawyer - Business Litigation & Employment Law



Saalfeld Griggs

Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301
 office: 503.399.1070 | fax: 503.485.5641
[Email](#) | [Web](#) | [Bio](#) |

Paralegal | Kayla Franz | kfranz@sglaw.com

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Thanks,

Joseph Lease, Building Official

Community Development Department

169 SW Coast Highway

Newport, Oregon 97365

j.lease@newportoregon.gov

(541) 574-0627

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Otherwise, if you have any other questions, please don't hesitate to contact our office.

Thank you,

Garrett Urrutia

Lawyer - Business Litigation & Employment Law



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301
 office: 503.399.1070 | fax: 503.485.5641
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Paralegal | Kayla Franz | kfranz@sglaw.com

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Joseph Lease

From: Microsoft Outlook on behalf of (458) 240-2160
Sent: Wednesday, May 11, 2022 11:31 AM
To: Joseph Lease
Subject: Voice Mail (49 seconds)
Attachments: (458) 240-2160 (49 seconds) Voice Mail.wav

[WARNING] This message comes from an external organization. Be careful of embedded links.

Hi Joseph my name is Corrine Campbell I'm with peterson's structural engineer.

I am calling in balance a structure located at -- 6:18 through 6:20 southwest eight boulevard -- I see a notice in order for and I'm out to this building and structural damage I was wondering if I could call and just make sure that I had a understanding of what you needed from the owner if you wanna give me a call back my phone number is 458 -- 240-2157 again this is Corrine Campbell from Peter Petersen structural.

(458) 240-2157 I look forward to hearing from you.

Preview provided by Microsoft Speech Technology. [Learn More...](#)

You received a voice message from (458) 240-2160

Caller-Id: (458) 240-2160

*Corrine Kimbel
ENGINEER TO REVIEW
Bldg on 5-20-22*

Joseph Lease

From: Joseph Lease
Sent: Thursday, July 07, 2022 10:17 AM
To: 'Margaret Gander-Vo'
Subject: RE: FW: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Margaret,

Since there are structural issues and repairs are still needed action is still required to address the Notice of Violation. The engineer's report was somewhat limited in scope as noted in the report as there were areas where the engineer was not able to gain access to make observations of the structural conditions.

This being said, since the engineer's report determined the building is not currently an imminent threat of collapse, the City will work with the owners or any potential buyer on a mitigation plan and timeline for demolition or repair. In expectation of this we are providing an additional 90 day extension to October 17, 2022.

The Notice should not impede the sale. Full disclosure should be provided to the buyer to the extent provided by law. The City has not filed any Notice of Pendency relating to this matter, and we generally don't as long as parties are working towards a solution.

I hope this answers your questions.

Thanks,

Joseph Lease, Building Official
 Community Development Department
 169 SW Coast Highway
 Newport, Oregon 97365
j.lease@newportoregon.gov
 (541) 574-0627

From: Margaret Gander-Vo <Margaret@SGLAW.com>
Sent: Tuesday, July 05, 2022 11:18 AM
To: Joseph Lease <J.Lease@NewportOregon.gov>
Subject: RE: FW: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Joseph:

I'm following up on my previous email below. The Owner is entering into a PSA to sell the building to a neighboring property owner. Can you please confirm what the next steps would be in this situation?

Thank you,

Margaret Y. Gander-Vo
 Lawyer -- Real Estate and Land Use



Saalfeld Griggs PC

Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301
 tel: 503.485.4271 | fax: 503.371.2927
[Email](#) | [Web](#)

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From: Margaret Gander-Vo
Sent: Tuesday, June 21, 2022 3:45 PM
To: 'Joseph Lease' <J.Lease@NewportOregon.gov>
Cc: Garrett T. Urrutia <gurrutia@sglaw.com>; Daniel S. Reynolds <dreynolds@sglaw.com>
Subject: FW: FW: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Joseph,

My office represents the Estate of Richard C. Welton, the Owner of the property commonly known as 618-620 SW Bay Blvd., Newport, Oregon 97365. You previously spoke with Garret Urrutia in my office regarding a Notice and Order issued by the City against this property and agreed to grant an extension of 120 days to comply with the Notice and Order issued by the City against the property, which will lapse on July 17, 2022. I believe the expectation was to allow my client to engage an engineer to determine whether there is a risk of potential collapse and perform an analysis of the structural integrity of the property, although a complete structural analysis was not required at that time.

Attached is an Observation Memo prepared by a licensed engineer which establishes that the building is not currently at risk of an imminent collapse and recommending repairs. My client is in negotiations with a neighboring property owner for the sale of the property with the understanding that the building would be demolished by the prospective purchaser. As there are not any imminent threats, but there are suggested short term and long term repairs, can you clarify what the City's expectations are for the next steps in the enforcement action?

Thank you,
Margaret Y. Gander-Vo
 Lawyer – Real Estate and Land Use



Saalfeld Griggs

Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301
 tel: 503.485.4271 | fax: 503.371.2927
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Sent: Wednesday, April 13, 2022 11:37 AM
To: Garrett T. Urrutia <gurrutia@sglaw.com>
Cc: Derrick Tokos <D.Tokos@NewportOregon.gov>; Daniel S. Reynolds <DReynolds@sglaw.com>; Kayla Franz <KFranz@sglaw.com>
Subject: RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Garrett,

The new suspense date will be July 17, 2022.

Thanks,

Joseph Lease, Building Official

Community Development Department

169 SW Coast Highway

Newport, Oregon 97365

j.lease@newportoregon.gov

(541) 574-0627

From: Garrett T. Urrutia <gurrutia@sglaw.com>

Sent: Wednesday, April 13, 2022 11:20 AM

To: Joseph Lease <J.Lease@NewportOregon.gov>

Cc: Derrick Tokos <D.Tokos@NewportOregon.gov>; Daniel S. Reynolds <DReynolds@sglaw.com>; Kayla Franz <KFranz@sglaw.com>

Subject: RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

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Thank you for the follow up and the clarification. We will pass that along to our client as well.

Thanks,

Garrett Urrutia

Lawyer - Business Litigation & Employment Law



Scafield Griggs

Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301
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Thank you,

Garrett Urrutia

Lawyer - Business Litigation & Employment Law



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Paralegal | Kayla Franz | kfranz@sglaw.com

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Eugene Office
 4710 Village Plaza Loop
 Suite 170
 Eugene, OR 97401
 458.240.2160

June 21, 2022

Jane McClellan
 Personal Representative for the Richard Welton Estate
 1406 NW Oceania Drive
 Waldport, OR 97394
 503.985.2699

Project #: 2204-0017

RE: 618-620 SW Bay Blvd Newport Evaluation – Condition Evaluation

Dear Jane-

Per your request, the following memorandum has been generated to detail Peterson Structural Engineers' (PSE) site visit observations, and repair recommendations for the building located at 618-620 Bay Boulevard in Newport, Oregon. It is our understanding that the City of Newport has identified this structure as a "Dangerous Building" and requires that an engineer observe the condition of the building. In addition, the city requires that an engineer prepares a plan of remediation and repair of the structural force resisting system to address any imminent hazards. It is PSE's understanding that a complete structural analysis of the building is not necessary and that a complete repair and remediation plan is also not required at this time.

Background

Based on conversations with the client, it is our understanding that the building was originally built in circa 1887 and that it may have originally been constructed at a different location and relocated to its current location. It is also rumored that the building may not be founded on a foundation.

Observations

PSE's observations are based on a site visit performed on May 20th, 2022, during which the exterior and interior of the structure were observed. Our site observations were limited to visible and accessible portions of the structure. During the site visit, we observed the interior and exterior of the structure from ground level, elevated loading dock, or upper story floors. We did not use lifters or ladders to observe areas of the structure not visible from grade, elevated loading dock, or upper story floors. At the time of our site visit interior and exterior finishes were in place throughout most of the building and access to the North and South sides of the building was limited due to fencing; therefore, we were unable to observe some areas of the structure that are likely to have additional undocumented damage. We did not access the attic of the structure or any potential crawl space areas due to lack of any evident access. Additionally, we were not provided historical construction or design documents, and we have not performed any structural analysis or design checks of the building per current building code.

The subject structure is a three-story light wood framed commercial building located on Newport's Historic Bayfront. The original structure appears to be a rectangular three-story structure with a gable roof with storefront parapets. It appears that a two-story addition was added to the original structure at the west wall. This addition has a monoslope roof. Based on our observations, the gravity force resisting system is comprised

of wood joists, beams, posts and bearing walls. Due to finishes we were unable to ascertain if the exterior walls were balloon framed or platform framed. The lateral force resisting system is most likely comprised of horizontal lumber sheathing barring any unknown past renovations or upgrades.

The east exterior wall is parallel to SW Bay Blvd. This exterior wall has an attached awning located at approximately the base of the second story. This exterior wall also has an architectural 'eyebrow' appendage at approximately the top of the third story. Both the south and north exterior walls are located in close proximity to adjacent buildings (approximately 3-5 ft clear). A multi-story structure is closely adjacent to the south exterior wall and a single-story structure closely adjacent to the north exterior wall. The east exterior walls back up to a slope and an elevated loading dock with walkway allows access to the third story of the building. Observation and evaluation of the loading dock was outside of PSE's scope of work.

While on site, PSE checked the plumbness of all the exterior walls using a 4-foot level. All observed exterior walls were plumb at the locations they were checked and also appeared to be plumb. Interior walls were also checked for plumbness and though some interior walls were found to be out of plumb, PSE believes that this is likely due to poorly installed or buckling finishes. Widespread deterioration and evidence of water intrusion, likely due to multiple decades of deferred maintenance, was observed. At the exterior of the building missing and deteriorating siding was observed as was failing paint.

There is widespread deterioration of the eyebrow appendage at the east wall of the building. During our site visit small debris impacted the awning at the east wall, presumably dislodged from this deteriorating eyebrow appendage. Vegetative growth on the eyebrow appendage was also observed. In its current condition, the eyebrow appendage poses a falling debris risk. The awning at the east exterior wall showed signs of mild corrosion and failing paint at the awning supports. Significant loss of section of these supports was not observed.

A hole approximately 10-feet in width and 5-feet in height was observed at the south wall of the structure. This hole extended through the exterior siding and sheathing. Due to lack of access at this wall of the structure we were unable to determine if the wall studs at this location had been damaged but based on the condition of the siding and sheathing, damage of the studs is likely. Vegetative growth in the neighboring buildings gutters suggest that these gutters are blocked and may overflow during a rain event and direct rainwater towards the south wall of the subject structure at the location of the hole. This hole potentially compromises the gravity force resisting system and reduces the capacity of the lateral force resisting system.

A second story floor beam was observed to be crushing on the column seat. Though it appears at some point two additional columns were added to support this beam near the location where the crushing occurred, based on conversations with the clients it is unlikely that this repair was an engineered design. The crushing of this beam indicates that the beam may be undersized or that the floor above may have historically been overloaded. Poorly executed repairs along the same beamline were also observed as were checked and/or splitting posts.

While on site, a small investigative hole was dug at the south-east corner of the building and no foundation was observed. At the interior of the first story at the north wall a hole in the finishes was discovered that allowed observation of the exterior wall and interior concrete slab interface. At this location it appeared that the concrete slab at the first story was poured between the wall framing. Based on these observations PSE believes it is likely that the building is not founded on a competent foundation. If true, this could lead to water intrusion and deterioration of structural members in contact with soil.

At the 2nd and 3rd stories the floors were sloping at multiple locations. This indicates possible differential settlement or failure of gravity force resisting elements below. Due to the apparent lack of competent foundation, differential settlement is a likely cause.

Recommendations

We have not performed any detailed structural analysis or design of the building per current building codes. The recommendations detailed herein are based on engineering judgment and experience with similar structures.

Based on our limited visual observations, we have generated the following repair recommendations with suggested maximum repair timelines.

1. Removal of and/or repair of the eyebrow appendage at the east exterior wall of the building to alleviate the hazard of falling debris. PSE recommends completing this repair as soon as possible, but no longer than two months from the date of this report.
2. Removal of building contents at upper levels to reduce loading on the gravity force resisting system. PSE recommends completing this remediation as soon as possible, but no longer than six months from the date of this report.
3. Investigation and repair of the hole in the east exterior wall. PSE recommends completing this repair as soon as possible, but no longer than six months from the date of this report.
4. Investigation and repair of beamline supporting the second story floor. PSE recommends completing this repair as soon as possible, but no longer than six months from the date of this report.
5. Further investigation into the presence and/or condition of the foundation and repair and/or remediation of foundation as appropriate. PSE recommends completing this repair as soon as possible, but no longer than six months from the date of this report.
6. Completion of deferred maintenance including repairs to siding, paint, and waterproofing. PSE recommends that these repairs be completed as soon as possible, but no longer than six months from the date of this report.

Conclusions

Based on our observations and limited visual inspection, at the time of our site visit the building does not appear to be an imminent life safety concern. Although PSE has not identified any imminent life safety concerns. It is our opinion that the structure is not fit for habitation. Repairs to the structure are required and should be completed in accordance with the timelines stated previously. As previously noted, our observations were limited to visually accessible areas, and it is our opinion that additional damage and/or deterioration is likely in many areas once finishes are removed that will need to be remediated. Failure to address the observed damaged and deteriorated areas and properly waterproof the structure will lead to additional deterioration and would pose a potential for an imminent hazardous condition to develop. If any movement or changes to the structure are observed prior to repairs, then the building should be further evaluated at that time.

Please note that these recommendations are based solely on our observations at the structure and engineering opinions. No calculations or analysis have been performed.

618-620 SW BAY BLVD NEWPORT EVALUATION
Richard Welton Estate

June 21, 2022

Thank you for requesting our services for evaluation of this building. Please don't hesitate to contact our office with any questions or comments

Sincerely,



Karryn Kimball, PE
Project Manager
Peterson Structural Engineers, Inc.



Sent via email to Jane McClellan on 6/21/2022 nwraven1951@aol.com

Photographic Appendix**Photo 1**

Showing east exterior wall with awning, eyebrow appendage, and adjacent structures.

**Photo 1**

Showing west exterior wall with loading dock and two-story addition.



Photo 3

Showing
deteriorating
and missing
siding and
failing paint.

**Photo 4**

Showing
deteriorating
eyebrow
appendage with
vegetative
growth.



Photo 5

Showing hole in south wall and vegetative growth in adjacent gutters.

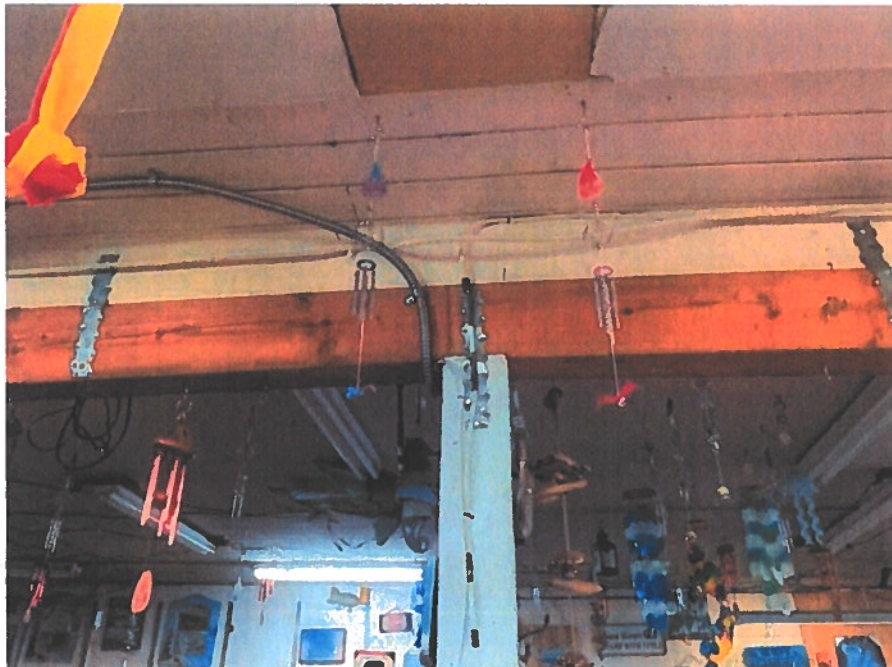
**Photo 6**

Showing 2nd story floor beam crushing at column seat.




Photo 7

Showing poorly
execute repairs
at 2nd story
floor beam.

**Photo 8**

Showing base
of south
exterior wall.



<u>Photo 9</u>	
Showing interior wall to interface with interior concrete slab.	

Attachment "F"

1-CP-23

RECORDING REQUESTED BY:


Western Title & Escrow

255 SW Coast Highway, Suite 100
Newport, OR 97365

AFTER RECORDING RETURN TO:

Dylan McEntee
Mo's Enterprises, Inc.



657 SW Bay Blvd
Newport OR 97365

SEND TAX STATEMENTS TO:

Mo's Enterprises, Inc.

Same As Above

R430336 and 11-11-08-CA-05100-00

Lincoln County, Oregon	2022-09567
10/07/2022 03:41:02 PM	
DOC-PRD	Cnt=1 Pgs=2 Stn=10
\$10.00 \$11.00 \$10.00 \$60.00 \$7.00	\$98.00
I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.	
	
Dana W. Jenkins, Lincoln County Clerk	

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PERSONAL REPRESENTATIVE'S DEED

Jane M. McClellan, the duly appointed, qualified and acting personal representative of the estate of Richard Charles Welton, deceased, pursuant to proceedings filed in Circuit Court for Lincoln County, Oregon, Case No. 22PB01129, Grantor, conveys to Mo's Enterprises, Inc., Grantee, all the estate, right and interest of the above named deceased at the time of the deceased's death, and all the right, title and interest that the above named estate of the deceased by operation of law or otherwise may have acquired afterwards, in and to the following described real property:

Lot 5, Block 3, NEWPORT, in the City of Newport, County of Lincoln and State of Oregon.

EXCEPTING THEREFROM the Northeasterly 16 1/3 feet as conveyed to C.A. Gregory, et ux, by deed recorded April 4, 1945 in Book 103, page 410, Deed Records.

The true consideration for this conveyance is Four Hundred Forty-Six Thousand Two Hundred Fifty And No/100 Dollars (\$446,250.00).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.304 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

PERSONAL REPRESENTATIVE'S DEED
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

The Estate of Richard Charles Welton

By: Jane M. McClellan 9/29/2022
Jane M. McClellan, Successor Peronal Representative Date

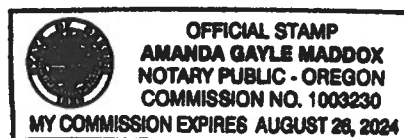
State of OREGON

County of Lincoln

This instrument was acknowledged before me on Sept 29, 2022 by Jane M. McClellan, as Successor Peronal Representative for The Estate of Richard Charles Welton.

Amanda Maddox
Notary Public - State of Oregon

My Commission Expires: Aug 26, 2024



Attachment "G"

1-CP-23

Derrick Tokos

From: Derrick Tokos
Sent: Tuesday, December 20, 2022 1:49 PM
To: 'Celeste McEntee'
Cc: 'Celeste McEntee'; 'Celeste McEntee'
Subject: Reissued Demolition Permit for 618 SW Bay Blvd
Attachments: 625-22-000856-DEMO.pdf; historic inventory.pdf; NMC Chapter 14.23.pdf
Importance: High

Hi Celeste,

Per our discussion, attached is an amended demolition permit that limits activities to the removal of asbestos siding, and asbestos laden materials from within the building that I understand relates to portions of the flooring. This will allow you to move forward with the abatement that you have scheduled for 1/3/23 without incurring a financial penalty for rescheduling. We can view the abatement as a repair, since the permitted work does not foreclose the possibility of the building being restored to its original character (NMC 14.23.030(A)).

This building is one of the oldest in Newport and is included in the City's adopted inventory of historic buildings. Conditional use review by the Planning Commission is required to alter the building, and the Commission is charged with ensuring that proposed changes will not detract from or destroy the building or the architectural features that led to it being listed as significant (NMC 14.23.040).

The conditional use rules do not provide for demolition of the entire structure, even though it may be warranted in certain circumstances. This is an issue that I am prepared to bring to the Commission's attention at its January 9th meeting to see if they would be willing to modify the City's rules to either (a) remove the building from the City's historic inventory given its deteriorated condition or (b) add language to the Municipal Code to allow demolition of historic buildings in circumstances where the condition of the structure is such that it is a health/safety hazard that cannot be practicably remedied. If the Commission is prepared to move forward with one of these options then it will take 90-120 days to work the changes through a legislative process with hearings before the Commission and Council. This means that the earliest full demolition could occur (assuming the legislative changes are adopted) would be the April/May timeframe. The City would issue a new demolition permit at that point in time.

I understand that you cannot attend the January 9th Commission meeting, but that you have some information you would like me to share with the Commission regarding the compromised condition of the building and your plans for redeveloping the property. Please send it to me by January 5th so that we can include it in the meeting packet.

Attached for your reference is the City's historic building inventory and NMC Chapter 14.23 that sets out the conditional use review process for alterations to historic structures.

Let me know if you have any questions.

Derrick I. Tokos, AICP
 Community Development Director
 City of Newport
 169 SW Coast Highway
 Newport, OR 97365
 ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov



City of Newport

169 SW Coast Hwy

Newport, OR 97365

541-574-0629

Fax: 541-574-0644

Building Permit**Commercial Demolition****Permit Number: 625-22-000856-DEMO**

IVR Number: 625014608659

Web Address: www.newportoregon.govEmail Address: permits@newportoregon.gov**Permit Issued:** December 14, 2022**Application Date:** December 14, 2022**TYPE OF WORK****Category of Construction:** Commercial**Type of Work:** Demolition**Submitted Job Value:** \$0.00

Description of Work: Removal of Asbestos Siding and Asbestos Laden Material From Within the Building. (This amended permit issued on December 20, 2022 replaces permit issued December 14, 2022 with description of: Demo building and small temp shed next to building)

JOB SITE INFORMATION**Worksite Address**

618 SW BAY BLVD

Newport OR

Parcel

11-11-08-CA-05100-00

Owner:

MOS ENTERPRISES INC

Address:

657 SW BAY BLVD

NEWPORT, OR 97365

LICENSED PROFESSIONAL INFORMATION**Business Name**

STATON COMPANIES - Primary

License

CCB

License Number

3371

Phone

541-726-9422

PENDING INSPECTIONS**Inspection**

1999 Final Building

Inspection Group

Struct Com

Inspection Status

Pending

SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Schedule or track inspections at www.buildingpermits.oregon.gov

Call or text the word "schedule" to 1-888-299-2821 use IVR number: 625014608659

Schedule using the Oregon ePermitting Inspection App, search "epermitting" in the app store

PERMIT FEES

Fee Description	Quantity	Fee Amount
Demolition permit fee - large commercial structure >4,000 sqft		\$250.00
	Total Fees:	\$250.00

Note: This may not include all the fees required for this project.

Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.

Per R105.7 and R 106.3.1, a copy of the building permit and one set of approved construction documents shall be available for review at the work site.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (503) 232-1987.

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).

Derrick Tokos

From: Derrick Tokos
Sent: Tuesday, January 10, 2023 2:38 PM
To: 'Dylan McEntee'; 'Celeste McEntee'
Cc: 'Celeste Mcentee'; Sherri Marineau
Subject: RE: Letter of intention for 618 SW Bay Blvd

Hi Dylan and Celeste,

The Planning Commission meeting went well last night, and they were comfortable initiating the process to amend the City's historic building inventory to delist the 1886 Building so that it can be demolished. As I mentioned, the plan amendment process will take a little time as there will be two public hearings, one before the Commission and another before the City Council. The State of Oregon also requires we provide them with 35-day advance notice of the first hearing (which I did today). The Planning Commission will hold its hearing on February 27th. This would be followed by a Council meeting on March 20th. Given the condition of the building, I believe that we can set the ordinance up for emergency adoption by the Council, meaning that it would be effective when approved.

One ask from the Commission is that you provide additional information to back-up the \$2,000,000 renovation estimate referenced in your letter. Please send that over at your earliest convenience.

Thank you,

Derrick I. Tokos, AICP
 Community Development Director
 City of Newport
 169 SW Coast Highway
 Newport, OR 97365
 ph: 541.574.0626 fax: 541.574.0644
 d.tokos@newportoregon.gov

-----Original Message-----

From: Dylan McEntee <dylan@moschowder.com>
Sent: Friday, January 6, 2023 2:57 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>; Sherri Marineau <S.Marineau@NewportOregon.gov>
Subject: Letter of intention for 618 SW Bay Blvd

[WARNING] This message comes from an external organization. Be careful of embedded links.

Derek,

Here is the letter of our intention for the building at 618 SW Bay Blvd. The Fire Department is coming in on Monday to do a fire hazard plan and they indicated they most likely will be producing a letter describing the severity of the fire hazard it is to the neighborhood. As you may be aware we will not be able to be at the City Council meeting on Monday, so hopefully the letter is sufficient to explain our position.

Best regards,

Dylan



NATIONALLY FAMOUS CLAM CHOWDER - FRESH OREGON SEAFOOD

City Staff and City Council,

In October of 2022 we moved forward with the purchase of the building at 618 SW Bay Blvd; listed as 'The Grand' on the city's list of historic sites, also known as "Circa 1886 building", and has most recently the business that operated out of the space was called 'The Old Bayfront Bazaar'. Some back story to the recent history on this property should help give our request to demolish the building some context.

An order from the city of Newport to bring this building back up to code was issued on Marh 17, 2022 requiring the owner to remedy the list of structural deficiencies otherwise face a fine of \$1,000 per violation per day. When this order was given, the current operating business, 'The Old Bafront Bazaar' closed its doors until the owner of the building and business, Richard C. Welton could make those necessary repairs. In July we were notified that Richard C. Welton had passed away and subsequently notified that his estate had requested that if his heirs did not intend to operate the business or keep the building that the "Mo's family" be granted first right of refusal to purchase the property, as he had a great relationship with Mo and the entire Mo's family. We entered into contract to purchase the building in July and the sale was final in October.

Our original intention was to do what we have always done with other buildings on the bayfront that we have owned and remodeled, which was to keep its original form and appearance to honor its history. We were very excited about the project of resurrecting this building to its former glory, while also bringing it up to date with building codes and fire codes. We had long been nervous about the integrity of this building and the fire hazard it presented to the surrounding buildings, as it was not sprinkled and in significant disrepair.

We had an engineering firm look at the building and they determined the foundation was not adequate for the size of the structure and would need significant work or be completely replaced. The work that would need to be done to the building to prepare it do that was financially prohibitive, as estimates came in over \$1,000,000 before we could even start the repurposing portion of the remodel. In total, to accomplish what we had originally planned, estimates were over \$2,000,000. The estimates were out of realm of financial feasibility, so we then started to explore the possibility of total replacement of the building. The costs of this new plan after asbestos abatement, demolition, and site work we are looking at under \$100,000.

If allowed to move forward with demolition, our plan is to eventually build a new building with all the proper safety codes, fire codes and engineering required to rebuild a beautiful new building, but use a similar facade to ensure the 'skyline' retains the same and to retain the historic feel of our Historic Bayfront.

Best Regards,

Dylan McEntee
Mo's Enterprises, Inc.

Mo's ENTERPRISES, INC.
657 SW BAY BLVD - NEWPORT, OR 97365
TEL: 541-265-7512
WWW.MOSCHOWDER.COM

Derrick Tokos

From: Director <director@oregoncoasthistory.org>
Sent: Thursday, February 23, 2023 11:56 AM
To: Derrick Tokos
Cc: James Bassingthwaite
Subject: Re: Upcoming Public Hearing Regarding the 1886 Building (618 SW Bay Blvd)

[WARNING] This message comes from an external organization. Be careful of embedded links.

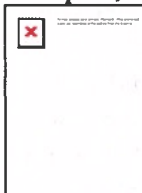
Hi Derrick--thank you for the consideration and the opportunity to comment.

We agree with your assessment of the building and its status.

We would like to have the opportunity to take photographs of the building before the demolition. If there is anything of historical value that would be reasonable to preserve (weight, size, presence of pests, and condition are factors), we would like to exercise that opportunity. If the building owner could schedule an appointment so we could visit the site and view its interior, we could discuss at that time options for items (if any) that could be preserved in the LCHS collection.

Best, Susan

Susan MG Tissot
Executive Director
Lincoln County Historical Society
We operate 2 locations:
Pacific Maritime Heritage Center, 333 SE Bay Blvd (my primary office is here)
Burrows House & Log Cabin Research Library, 545 SW 9th Street
Newport, OR 97365 (541) 265-7509



[FACEBOOK](#)

[Pacific Maritime Heritage Center](#)

[Burrows House Museum](#)

[Log Cabin Research Library](#)

On Wed, Feb 22, 2023 at 5:19 PM Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Hi Susan,

I am reaching out to let you know that the Newport Planning Commission will be holding a public hearing at 7:00 pm on Monday, February 27, 2023 in the City Hall Council Chambers to consider whether or not to recommend the City Council

remove the 1886 building from the City's historic property inventory. Such a step would clear the way for the building to be demolished. The new owner has indicated that they want to demolish the structure and rebuild, because it is not practicable to repair the building given its deteriorated condition.

Work that is currently being performed on the building is part of an asbestos abatement project. No other changes to the structure are anticipated until the question about potential demolition is resolved.

The building was posted by the City Building Official as unsafe to occupy in March of last year due to significant structural deficiencies that could result in its partial collapse. Unfortunately, the property owner passed away shortly after a notice and order to abate the unsafe condition was issued by the City. Lawyers representing the estate had the building inspected by a structural engineering firm in June of 2022. That firm concluded that the building did not appear to be an imminent life safety concern, but that it was not habitable. This conclusion included several caveats, with the engineer's noting that their observations were limited to visually accessible areas and that additional damage and/or deterioration is likely elsewhere on the premises. They also emphasized that recommended repairs should be performed within specific timelines, and that failure to do so will lead to additional deterioration that could lead to the development of an imminent hazardous condition. Those timelines have not been met.

The new owners purchased the building in its current condition and assessed what it would take to repair the structure. Unfortunately, the information they provided suggests that the building has deteriorated to the point where it cannot be reasonably salvaged. OAR 660-023-0200(9) sets out circumstances that must exist in order for a local government to remove an historic resource from its inventory. One of those is when the local building official declares the historic resource, in this case a building, to be an imminent hazard to public safety with demolition being a course of action to abate the unsafe condition. It is my view that our Building Official's notice and order of March 2022 meets this requirement and I intend to recommend the Commission advise the City Council to remove the building from the inventory.

The City has a responsibility to coordinate with the Lincoln County Historical Society and State Historic Preservation Office on matters related to historic preservation (Policy 1, History Chapter, Newport Comprehensive Plan). Please accept this correspondence as a step in that regard. We reached out to the State Historic Preservation Office and they indicated that this is a local matter. If you are able, one option might be to take photographs and otherwise document the historic value of the structure. I am not sure if there are any particular items of historic value in the building. If there are, then I suspect the current owner might be willing to work with you to preserve them. We are open to any other thoughts you might have as well.

The Planning Commission hearing is the first of two required public hearings. A City Council hearing will also be required in the coming weeks. You are welcome to attend the upcoming Planning Commission meeting. If you have written testimony, I would be happy to pass that along as well.

It is my understanding that you will be holding a board meeting on the day after the Planning Commission meeting, on February 28th. If you would like the Planning Commission to hold off on making its recommendation until you have had a chance to hold that meeting, then please let me know and I'll pass the request along to them for their consideration.

Attached is additional background information related to the matter at hand.

Derrick I. Tokos, AICP

Community Development Director

City of Newport

169 SW Coast Highway

Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

d.tokos@newportoregon.gov

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
January 9, 2023

Planning Commissioners Present: Jim Patrick, Bob Berman, Braulio Escobar (by video), Jim Hanselman, Gary East, Bill Branigan, and John Updike.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 6:00 p.m. On roll call, Commissioners Patrick, Branigan, East, Hanselman, Berman, Escobar, and Updike were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Regular Session Meeting Minutes of December 12, 2022.**

MOTION was made by Commissioner Branigan, seconded by Commissioner East to approve the Planning Commission Regular Session meeting minutes of December 12, 2022 as written. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **Annual Organizational Meeting.**

MOTION was made by Chair Patrick, seconded by Commissioner Berman to nominate Bill Branigan as the new Planning Commission Chair. The motion carried unanimously in a voice vote.

MOTION was made by Chair Branigan, seconded by Commissioner Patrick to nominate Bob Berman as the Planning Commission Vice-Chair. The motion carried unanimously in a voice vote.

4. **Public Comment.** None were heard.

5. **Public Hearings.** At 6:04 p.m. Chair Branigan opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Commissioners Hanselman and Branigan reported drive-bys. Commissioners Patrick, Berman, East and Patrick reported site visits. Branigan called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File 4-CUP-22:**

Tokos reviewed the staff report and showed an aerial map of the lot to illustrate the site and the areas that would be altered for the new dealership building and service building. He also covered the land use requirements the applicant would have to meet that included landscaping standards, State legislation for EV charging stations, light shielding, employee parking for carpooling or vanpooling spaces, separated bike lanes, additional sidewalks on the northside area of 35th Street,

and sign permits. Tokos thought the standards had been met for the Commission to be able to approve the request.

Berman asked if the vanpool rules had a minimum number of employees for when the rules kicked in. Tokos reported the dealership was over this threshold and the standards came into play only when they had employee parking. Berman asked about if 15 foot landscaping standard had been added to the Municipal Code. Tokos confirmed it had been included. Berman questioned if vehicle repair wasn't allowed in this zone under the code. Tokos explained that vehicle repair became a conditional use with the ordinance changes.

Updike asked if the details of landscaping they were implementing would be provided later. Tokos reported they would provide these details with their building permit plan submittal.

Hanselman asked if the applicant was going to include a body shop that did painting or if they were just servicing vehicles in the vehicle repair department. Tokos would deferred this question to applicant.

Proponents: Paul Kurth with LRS Architects addressed the Commission and noted he represented the applicant. He explained that the dealership would be designed as a showroom and vehicle repair. Hanselman asked if the parking spaces in drawing A.002 would be used for employees or the public. He also wanted to know if the repair shop would be body shop to do work to fix wrecks. If so, Hanselman wanted to know where the wrecks would be parked. Hanselman also asked where the EV charging stations would be located. Kurth reported he didn't see the dealership doing any body shop work inside of the structure. He noted they would have a number of EV charging locations but they hadn't identified any locations at that time. Hanselman suggested they make sure to keep the lighting directed onsite.

Branigan asked how many EV charging station there would be and if they would be fast chargers. Kurth reported he didn't have the information at that time. Berman asked if they were only required to put in the conduit for charging stations. Tokos confirmed this was correct.

Opponents: None were heard.

Chair Branigan closed the hearing at 6:34 p.m.

Hanselman thought the applicant had been thorough but thought they needed to explain a few more things. He hoped they would be good members of the community. Hanselman stated he would support an approval.

Patrick thought ~~they~~ met the criteria. He thought the conditions were ~~reasonable~~ and it would be an improvement. Berman, East and Updike agreed.

Escobar reminded that the Commission knew this application would be coming through when they did the adjustments to the zoning in South Beach. He thought this would enhance South Beach and he fully supported it because they met the criteria.

Branigan thought all the conditions had been met and felt this would be an improvement. He supported the renovation of the dealership.

MOTION was made by Commissioner Patrick, seconded by Commissioner Escobar to approve File 4-CUP-22 with the three conditions. The motion carried unanimously in a voice vote.

B. File 3-AX-22 / 7-Z-22:

Tokos reviewed the staff report for the annexation. He noted that a separate public hearing for a conditional use permit that would go before the Commission, then on to the City Council, when they had the details about what the Church intended to construct. This would happen at a later date when the Council did an ordinance. It would then go to the Oregon Department of Revenue who would officially modify their maps.

Berman asked if the property to the east of this location was public property. Tokos reported this was city owned property. It used to be part of the Seal Rock Water District and was subsumed by the city. Berman asked if there were any plans for this property. Tokos noted they would like to extend a trail down the Chestnut Street right-of-way and along the property back to the Wilder subdivision. Berman asked if there was involvement by the County to withdraw this property. Tokos reported the County didn't have involvement. The property would be withdrawn from the Lincoln County Library District and the Rural Fire District. The city already provided services to this area so this was a wash for the districts. There was also a Seal Rock Water District agreement that had outstanding debt that accrued before the city took over water service for this area. The city had to pay the small outstanding balance and it would soon the debt would go to the wayside.

Patrick asked what the policy was for landlocked lots. Tokos explained this wasn't a land locked lot and he showed the Commission where the access would be on the map.

Proponents: Luke Frechette with South Beach Church addressed the Commission. He reported that he was the owner of the property and was excited about the process to purchase the property. Frechette gave an overview on the progress they were going through to ultimately build on the lot.

Berman asked what their timeline to move to the property was. Frechette reported they would be building as fast as possible and hoped to break ground in March. They had to be out of their current location by December 31st of this year. If they were not ready, they might try to apply for an extension of the lease. If this didn't happen they would temporarily move until the new structure was complete.

Escobar asked what their plan was to mitigate noise at this parcel. Luke reported they were designing a building that was acoustically sound inside and out.

Opponents: None were heard.

Chair Branigan closed the hearing at 6:50 p.m.

Updike had no problems with the application and was in favor of it. East agreed. Berman thought it was the logical thing to do. Patrick agreed and thought the zoning fit. Hanselman said he was good with everything and thought this was the way to annexing.

MOTION was made by Commissioner Patrick, seconded by Commissioner Berman to make a favorable recommendation to the City Council for File 3-AX-22 / 7-Z-22. The motion carried unanimously in a voice vote.

C. File 5-Z-22:

Tokos reviewed the staff report that included the recommended changes to the Short-Term Rental (STR) Ordinance. Revisions included (a) adding a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license; (b) codifying the process the City was using to administer the waiting list for the issuance of short-term rental business license endorsements; (c) tightening up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a "strike" against the owner's short-term rental endorsement; and (d) eliminating the option that allowed the City Council to adjust the cap on the number of available vacation rental licenses by resolution as long as the cap figure did not exceed 200. On May 6, of 2019, with Resolution No. 3850, the City Council established the current cap at 176 licenses.

Tokos acknowledged the public comment received from Cheryl Connell concerning the 30 day grace period for new owners to operate without a license. He reminded that what they were talking about were units that had been previously licensed and inspected. Tokos noted that it was an entirely legitimate and understandable issue for Miss Connell to raise, but thought it was somewhat of a mitigating factor and a little bit different than a unit that had never been inspected. He also explained that Connell opposed the 176 license cap because it only applied to licenses in the permissible area and not to ones outside of the boundary.

Berman asked where they were at in terms of the caps and the number of operational STRs within the zone. Tokos explained that the area within the zone was where the cap applied. The cap number had been set at 176 since the 2019 changes. Tokos explained that typically the city freed up around 20 licenses per year to make available to people on the waitlist. People on the waitlist typically waited around two to three years before they were offered a license.

Hanselman asked how many licensed units there were outside of the allowed zone. Tokos explained when the new ordinance started it was around the mid 40's and currently was around the mid 30's. These licenses typically went away when the property was sold, the owners closed their licenses, or when the owners changed the properties to long term renting or they no longer wanted to do short term rentals.

Escobar suggested the Commission do a work session meeting to discuss this before making a decision. He didn't like the 30 grace period.

Berman asked if there was a parallel 30 day grace period for when the new owners of hotels received their licenses. Tokos explained that the city didn't shut them down during the period they were obtaining their business licenses. Berman asked if hotels had inspections like STRs. Tokos reported their inspections were a little different, and the Fire Department did their own inspections. He noted that a hotel could operate without a business license while waiting for their license to be issued.

Berman wanted to revisit the 10 year phase out for STRs outside of the zone and thought a work session meeting should have a discussion about doing this. Tokos explained the Commission had the right to do this, but they needed to make it clear that this wasn't a recommendation from the work group and that it came from the Commission. Updike asked if the work group discussed the phase out. Tokos reported there had been discussions, but they felt these licenses would go away over time. Branigan pointed out that he had served on the work group and reported that they had discussed this several times. They thought this was working fine as it was and it didn't think it needed to be changed.

Escobar wanted the Commission to discuss operating without a license for 30 days. He agreed that things were better now than before the new rules went in place. Escobar thought the ordinance was favorably working. Hanselman supported a work session meeting about the grace period and doing a phase out. He thought STRs outside of the zone were going away but it wasn't constant. Escobar requested that members of the STR work group participate in a work session meeting. Tokos would ask members of the Work Group to join the meeting and suggested continuing hearing to February 13, 2023 at 7 p.m.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to continue the public hearing for File 5-Z-22 to the February 12, 2023 meeting starting at 7 p.m., and schedule a work session meeting beforehand to discuss the changes. The motion carried unanimously in a voice vote.

Berman asked Tokos to bring language on a phase out to the work session. Tokos explained that he could do this, but if they were to entertain something like this, it would be a significant change that begged a much more public process. He cautioned that this wouldn't skate through with a number of limited public engaged. Tokos noted that if he brought forward language he expected the Commission would talk about it in the work session, and then discuss backing this out and doing a more robust public process. Otherwise, the public could say they never received notice it was being discussed. Berman thought this was the time to bring it up because the last time it was brought up at Council it was premature.

6. New Business.

A. 1886 Building and City Limitations on the Demolition of Historic Structures.

Tokos reviewed the memorandum concerning the demolition of the 1886 historical building in Newport. The current owner wanted to demolish and rebuild it with the same architectural aesthetics. He asked if the Commission wanted to take the building off the historical list. If so, this would require a Comprehensive Plan change to take it off the local inventory list and demolish the building. Tokos explained the Commission could then take more time to see if they wanted to make changes to the code itself and say they could allow demolition in certain circumstances. Tokos referenced the sample codes he provided concerning demolition. He reiterated that the 1886 building was in disrepair and could become a risk. Tokos explained the new owners had looked at what they could do with the building. An engineer looked at the property in the summer and said it wasn't an imminent risk but had serious issues. The new owners found that it would be around \$2 million to rectify the problems. Tokos reported they bought the building to rectify the situation and to in part protect their investment next door. The owners didn't see a viable option to remodeling it. Tokos noted the owners were open to working with the Historical Society to talk to them about any documents they would want, or to incorporate some significant elements into their redesign.

Berman asked if there were any provisions in the code that had to do with historical buildings that had been properly brought to enforcement in the last 20 to 40 years. Tokos didn't know of any but noted there were limited building maintenance provisions in the nuisance code. Berman wanted to keep this from happening again and asked if the Commission should be working with the historical code to have periodic inspections on the buildings and consequences for not fixing things from one year to the next. Tokos wasn't sure what this would look like or how effective this approach had been for other jurisdictions. He thought the most effective thing to do was to take this property off the historical list through the Comprehensive Plan modification. Then initiate work on the

historic code to look at the other buildings on the list, if there are other buildings to add to the list, to look at creating a process for this.

Hanselman noted that Jump Off Joes was still listed. Tokos reminded the Castle, Sylvia Beach and Earnest Bloch sites had been reviewed by the Commission. Updike asked how many buildings were on the State inventories. Tokos didn't know and would have to get the numbers for him. Updike had a problem with awarding a demolition through neglect. He thought they needed to be careful on what they did for this decision, and how precedential it could be for other similar buildings. Updike wanted to see some protections added to the language. Escobar asked if they could focus on this request to remove the one structure as a historical building and then discuss other issues in the future. He thought that Mo's had been a good citizen in the community and pointed out they stated in their letter they submitted that they wanted to preserve the same type of skyline adjacent to their existing building.

Commissioner Escobar made a motion to allow the removal of the 1886 building from the city's historical designation.

Tokos noted this motion would mean that the Commission was giving him the green light to prepare amendments to the comprehensive plan to do this. He thought they could justify an emergency adoption of the ordinance so the building didn't fall down. Updike expressed concerns that if they went down the path for an exit ramp for situations like this in the future in the code, he didn't think the letter they submitted was a robust financial analysis of building new versus rehabbing the old. Updike thought \$1.5 million wasn't an accurate cost estimate. Patrick reminded that there wasn't a way to fix this property. Updike was concerned about letting them make changes based on neglect. Patrick thought that when they did a new ordinance they would build in an emergency order for this. He reminded they could give them an emergency order because there wasn't anything in the current ordinance requiring them to maintain the building.

Tokos thought if the Commission initiated the process to amend this on the Comprehensive Plan level, it wouldn't be unreasonable to request that the McEntees provide additional information before the public hearing. Updike wanted to avoid a precedent of need. Tokos thought they could ask the McEntees to provide more details on the problems of the structure and why demolition was the only way forward. He thought the Commission could also do more in-depth work on how they should restructure the historical review process, how to create a safety valve for allowing demolition in certain circumstances, and how to make sure there wasn't an incentive to not maintain buildings. Patrick wanted a survey done on what shape the current historical buildings were currently. Tokos reported the Fire Department was currently putting together a plan for responding to protect the rest of the structures that are adjacent to the building in question.

Tokos reminded that when the McEntees purchased the property they knew the building was a problem. They purchased it in part to address the risk it posed to their own investments immediately adjacent to it. Tokos noted they didn't understand the historical significance of it at that time. Patrick asked if they could put a condition on this that they build something similar to what was there. Tokos reminded the conditional use would allow them to add conditions that it be consistent with the development character of the area, relative to its size and height.

MOTION was made by Commissioner Escobar, seconded by Commissioner Hanselman to initiate the legislative process to modify the Comprehensive Plan so the 1886 structure was delisted as a historical building and to allow the demolition of the building. The motion carried unanimously in a voice vote.

Tokos would send the notice to the state and get a public hearing scheduled.

7. **Unfinished Business.**

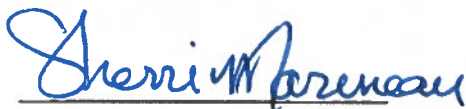
A. **Planning Commission Work Program Update.**

Tokos reported he would give updates to the Commission on the work program as it evolved.

8. **Director Comments.** None were heard.

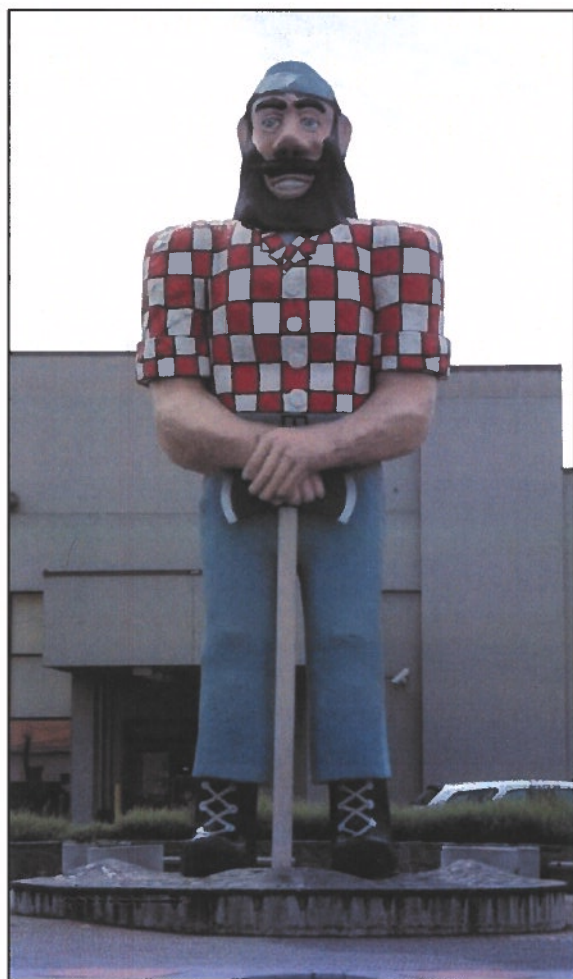
9. **Adjournment.** Having no further business, the meeting adjourned at 7:39 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant

PLANNING FOR HISTORIC PRESERVATION IN OREGON



**A Guide to the Administrative Rule for Protecting Historic
Resources under Statewide Planning Goal 5**

February 2018

Staff from the Department of Land Conservation and Development and the Oregon Parks and Recreation Department, State Historic Preservation Office, contributed to this guide.

All photos are courtesy of Oregon Parks and Recreation Department, State Historic Preservation Office. Clockwise from upper right:

Egyptian Theatre, Coos Bay
Salem Pioneer Cemetery, Salem
Paul Bunyan Statue, Portland



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INTRODUCTION

Oregon's historic places connect us to our past by creating physical continuity through generations and space for public conversations about our values and identity. Economic development rooted in a community's unique character creates not just memorable, livable spaces and authentic experiences, but also jobs and tax revenue. Over 50 Oregon communities have leveraged their historic resources by establishing a local preservation program. To be successful, the ongoing process of identifying and interpreting a community's historic places must be a local one, driven by inclusive public participation. This guide describes that process under Oregon's Goal 5 rule.

Oregon's Statewide Planning Goals

The Oregon Land Conservation and Development Commission (LCDC) is charged by the Oregon Legislature with adopting, maintaining, and enforcing statewide planning goals to carry out the land use policies of the state. The first 14 planning goals adopted by LCDC became effective January 25, 1975. Goal 5 said that it is state policy: "To protect natural resources and conserve scenic and historic areas and open spaces." That goal has remained unchanged, although the specifics regarding how to achieve that goal have evolved.

Administrative Rules

LCDC has authority to adopt rules to implement the goals. The rules – called "Oregon Administrative Rules," and identified as "OAR" – provide authority and requirements for local government (i.e., city and county) comprehensive plans and zoning ordinances for a wide range of land use matters. The "Goal 5 rules" provide the requirements for protecting natural resources, scenic and historic areas, and open spaces. The original rules, in OAR chapter 660, division 16 (adopted in 1981) provided procedures that applied to local government planning and zoning for the full range of resources covered by Goal 5.

LCDC replaced most of division 16 with OAR chapter 660, division 23 in 1996, but this structure laid out in division 16 was largely maintained in division 23:

Definition

"Inventory" is a survey, map, or description of one or more resource sites that is prepared by a local government, state or federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, "inventory" means to collect, prepare, compile, or refine information about one or more resource sites. (See resource list.) (OAR 660-023-0010(4))

1. Identify (inventory) the locations where the resource exists
2. Decide whether the resource values inherent in the resource warrant protection through comprehensive plan policies and zoning regulations (determine significance)
3. Identify what other permitted uses could lead to degradation of the significant resource (identify conflicting uses)
4. Balance the economic, social, environmental, and energy (ESEE) consequences of protecting the significant resource versus allowing the conflicting use(s), and
5. Decide whether and how to protect the resource, and place the outcome (the program to achieve the goal) in the comprehensive plan and implementing regulations

Definition

"Program" or "program to achieve the goal" is a plan or course of proceedings and action either to prohibit, limit, or allow uses that conflict with significant Goal 5 resources, adopted as part of the comprehensive plan and land use regulations (e.g., zoning standards, easements, cluster developments, preferential assessments, or acquisition of land or development rights). (OAR 660-023-0010(6))

The 1981 rules provided one decision-making structure for all Goal 5 resources, while the 1996 rules provided more-specific guidance and regulation tailored to the individual categories of resources (e.g., wetlands, mineral and aggregate, historic resources).

Historic Resources Rule

The historic resources rule – OAR 660-023-0200 (Appendix A) – includes procedural requirements for considering whether and how to protect historic resources. The rule recognizes that "conflicting uses" (step 3 in the previous section) in the context of historic resources are comprised exclusively of proposals to demolish, relocate, or alter

the resource – not activities on surrounding properties. The conflicting-use identification and balancing of ESEE consequences steps are therefore not required. Local jurisdictions may choose to regulate activities on surrounding properties to protect historic resources, but the rule does not require it.

A local government's historic preservation ordinance (the "program to achieve the goal") is not expected to be customized for individual sites or

historic districts, but, again, jurisdictions may choose to do so. A local government may establish its historic preservation ordinance any time during development of its historic protection plan element (although early in the process is encouraged). The rule does not prescribe any particular outcome for any resource – whether and how to protect is up to the local government.

The 1996 rule for historic resources made protection of most historic resources voluntary for local governments. The rule did not require a historic resource inventory. If a city or county chose to inventory historic resources, it was encouraged by the rule to complete the significance determination, and, if significant resources were identified, designation of the resource for protection was encouraged. There were two exceptions to this general scheme.

First, a property owner was allowed to prevent its property from being designated for protection. Consequently, a local government may have been precluded from protecting a significant historic resource if the property owner withheld consent.



Antelope Creek Covered Bridge, Jackson County

Second, LCDC found that it was in the state's interest to protect all historic resources listed by the National Park Service in the National Register of Historic Places. Therefore, a component of rule was not voluntary.

2017 Rule Amendments

After 20 years of experience with division 23, LCDC identified a need to update the rule to make it more clear and useable. The policies underpinning the 1996 rule (e.g., voluntary application except for National Register resources; suggested rather than required criteria) remain largely unchanged. The updates include new and amended definitions, clearer distinction between procedural steps, and more detail regarding review of applications to demolish or relocate National Register resources. Some procedural requirements have been added or removed. Unclear sections have been clarified. The entire rule is included in Appendix A.

The remaining sections of this guide explain the rule as amended in 2017 and how LCDC intends for it to operate. Rather than proceeding sequentially through the rule, the guide provides direction on how to navigate the rule depending on what the local government is trying to accomplish. Appendix C provides a chart of the process.

Please pay particular attention to the section “Protecting National Register Resources” (page 14). It includes provisions that are directly applicable to local land use decisions, so a local government must comply with those parts of the rule regardless of what its regulations provide.

Using this Guide

The following chapter, “Protecting Locally Identified Historic Resources,” explains the Goal 5 process as it applies to resources identified by a local government as historic. It provides requirements and guidance to assist local governments as they decide whether and how to protect their historic assets.



Dee Wright Observatory, McKenzie Highway, Deschutes County

The chapter “Removing a Resource from the Resource List” also applies to locally identified historic resources and not to those resources listed on the National Register of Historic Places. Federal regulations control removal of a resource from the National Register.

The “Protecting National Register Resources” chapter explains the administrative rule requirements for local protection of resources listed in the National Register of

Historic Places. The Goal 5 process for these resources is significantly different than that for locally identified resources.

PROTECTING LOCALLY IDENTIFIED HISTORIC RESOURCES

As stated in the introduction, protecting most historic resources is voluntary for local governments. This is made clear in OAR 660-023-0200(2)(a):

Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories, resource lists or programs regarding historic resources, except as specified in section (8) [for National Register resources]. Local governments are encouraged to inventory and designate historic resources and must adopt historic preservation regulations to protect significant historic resources.

Definition

"Resource list" includes the description, maps, and other information about significant Goal 5 resource sites within a jurisdiction, adopted by a local government as a part of the comprehensive plan or as a land use regulation. (OAR 660-023-0010(9))

If a city or county chooses to protect its historic resources, it must do so in conformity with the rule, as provided in OAR 660-023-0200(2)(b):

The requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, in conjunction with the requirements of the Historic Resources rule, apply when a local government chooses to amend acknowledged historic preservation plans and regulations.

Definition

"Historic preservation plan" is an element of a comprehensive plan that contains the local government's goals and policies for historic resource preservation and the processes for creating and amending the program to achieve the goal. (OAR 660-023-0200(1)(d))

Rule Applicability

The 2017 updates to the rule sections guiding the Goal 5 process for protection of locally identified historic resources (OAR 660-023-0200(3)-(7)) do not apply immediately. OAR 660-023-0250(3), the general applicability section of the Goal 5 rules, provides that rule amendments apply when a local government "creates or amends" a "plan or land use regulation" to protect a significant Goal 5 resource or to address specific requirements of Goal 5.

If the local government already has a program to protect historic resources in its plan and land use regulations, it is not required to update those existing provisions in order use them when reviewing applications for demolition, relocation, or alteration of a historic resource. A local government is required to comply with the rule at the time it amends the resource list, but few substantive requirements have been changed, so the

local government should assess whether its existing provisions conflict with rule requirements if a proposal to amend the resource list arises. This guide will assist that analysis.

Comprehensive Plan

Once a local government has decided there is value in protecting the community's historic resources, the first step will be to decide how to go about it. The historic resources rule provides guidance and includes a few requirements.

Typically, the comprehensive plan for a jurisdiction will include a description of the importance of historic resources within the community. This description is followed by a goal or policies, or both, providing the purpose of and the approach to protection. The rule calls this the "historic

preservation plan." A local government may decide to include additional information beyond a minimal description. The State Historic Preservation Office can provide assistance, including grants, in preparation of a historic preservation plan.

The comprehensive plan typically has one or a few goals that provide the overarching direction for the historic protection program. The policies typically provide more detail on outcomes and how the program will be carried out, but the policies are not regulations – that is what the historic preservation ordinance is for (the ordinance is discussed in the next section).

The rule, at OAR 660-023-0200(3), encourages comprehensive plans to be developed in a manner consistent with ORS 358.605 (the state policy on historic preservation; see Appendix B) and following the [Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation](#), produced by the National Park Service. These are suggestions, but they provide cities and counties with established, credible resources to draw from when developing a local program to protect historic resources.

Example Goals

- To protect historic resources and utilize and enhance those resources for residents and visitors.
- To preserve the integrity of the past while guiding the evolution of the future.

Example Policies

- Maintain survey information that accurately reflects the historic characteristics and quality of each historic structure.
- Establish design standards to ensure compatibility of new development with existing resources.
- Maintain historic review ordinances for historic structures and districts that ensure exterior alterations of historic structures maintain the historic value of the structure.

The rule encourages communities to include a “historic context statement” in the comprehensive plan. The historic context statement describes the broad historical development patterns in a community and identifies the historic resources associated with that story. The statement will provide important information for the community as it proceeds through the process of evaluating the historic significance of resources.

Definition

“Historic context statement” is an element of a comprehensive plan that describes the important broad patterns of historical development in a community and its region during a specified time period. It also identifies historic resources that are representative of the important broad patterns of historical development.
(OAR 660-023-0200(1)(c))

Historic Preservation Ordinance

The historic preservation ordinance, or local landmark ordinance, is the vehicle a local government uses to implement the historic resource protection policies contained in the comprehensive plan. The rule, at OAR 660-023-0200(3), encourages local governments to develop the ordinance, “in conjunction with inventorying historic resources.” The rule suggests that the inventory and ordinance be completed together because property owners will need to understand what types of regulations will be put in place to protect historic resources so they can make informed decisions regarding designation later in the process.

The ordinance will contain local regulations needed to carry out the policies of the comprehensive plan. This will include criteria that apply to designation of historic resources; review of requests for demolition, relocation, and modification; and other tools for historic preservation the local government chooses to include. The ordinance will also include the procedural requirements such as the contents of an application, whether a proposal is subject to a hearing, and who conducts a hearing when one is required. Some local governments have chosen to include designation criteria and the resource list in the plan while others place it in the ordinance. The rule allows either. If the resource list is included by reference in the comprehensive plan or code, amending the list by adding or removing resources must be processed like a plan or code amendment.

The rule, at OAR 660-023-0200(7), requires a local government to have a historic preservation ordinance if it chooses to protect historic resources. The rule provides no requirements regarding the content of the ordinance as it relates to locally designated resources, but it does encourage ordinances to be “consistent with standards and guidelines recommended in the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior, produced by the National Park Service.” Protection measures for National Register resources also must be included in the historic preservation ordinance, but certain rule

Definition

“Demolition” means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition. (OAR 660-023-0200(1)(a))

Definition**“Owner”**

(OAR 660-023-0200(1)(a))
See page 11

provisions apply directly until that is accomplished (see “Protecting National Register Resources,” page 14).

Two definitions in the 2017 rule amendments apply, or potentially apply, directly to local land use decisions.

The definition of “demolition” in OAR 660-023-0200(1)(a) applies directly for locally designated resources if the comprehensive plan or ordinance does not include one. (See “Base Level of Protection,” page 15, for a discussion of rules related to demolition of National Register resources.) The definition of “owner” in OAR 660-023-0200(1)(h) applies directly regardless of whether the historic preservation ordinance already includes one.

Inventoring Historic Resources

The Goal 5 rule, at OAR 660-023-0030, says the standard process for creating an inventory is: (1) collecting data, (2) determining the adequacy of the data, (3) determining the significance of a resource, and (4) adopting a list of significant resources (the “resource list”). The historic resources rule includes these steps in three sections (OAR 660-023-0200(4)–(6)), but the historic resources rule

separates “determining significance” and “adopting a resource list” from the “inventory.” All the steps are included, but organized differently.

Regarding collecting data and determining adequacy of the information collected, the 2017 rule amendments removed a requirement that the local government provide “broad public notice prior to collection of information,” although opportunities for community participation are still encouraged (OAR 660-023-0200(4)). Make sure to follow any public-involvement requirement contained in an existing historic preservation ordinance, as it still applies until an ordinance amendment removes it.

Note

The **Certified Local Government program** is a federal partnership program of the National Park Service, and is administered locally by the Oregon State Historic Preservation Office. The program encourages the identification, designation, and preservation of historic resources by providing federal pass-through funding and technical expertise.

The rule also states: “Local governments are encouraged to complete the inventory in a manner that satisfies the requirements for such studies published by the Oregon State Historic Preservation Office and provide the inventory to that office in a format compatible with the Oregon Historic Sites Database.” While not required, observing established formats will benefit the local government should a state or federal agency request the information for land use planning or disaster planning or response, or if the local government ever pursues federal Certified Local Government status through the Oregon

State Historic Preservation Office. By contributing to the Historic Sites Database, local governments also facilitate public access to information on our history and its meaning.

An “inventory” includes “historic resources” in the community. The local government will not have evaluated whether a resource is significant when the inventory is initially developed. That is, the inventory should include those resources that are *potentially* significant and worthy of protection. This is important because the rule gives no incentive for a local government to leave individual resources or potential districts off the inventory because placement on the inventory has no regulatory effect. Decisions on whether or how to apply ordinance protection comes later in the process.

Definition

“**Historic resources**” are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.
(OAR 660-023-0200(1)(e))

Evaluating and Determining Significance

Once a local government places a resource on an inventory, it is eligible to be evaluated for significance. This step is voluntary – that is, the rule does not require a local government to evaluate resources on the inventory. Similarly, the rule (OAR 660-023-0200(5)) does not provide criteria a local government must use when evaluating the significance of historic resources, but does suggest criteria. Inventories are more valuable for state and federal permitting and disaster planning response efforts if the resources have been evaluated for their historic significance and are recorded with the Oregon State Historic Preservation Office. The process allows for local autonomy by permitting the community to determine what is historically significant instead of leaving these decisions to other agencies.

The rule does not include a public-involvement requirement for the significance-evaluation step. The criteria for determining significance will reside in the comprehensive plan or historic preservation ordinance, and public involvement was provided during consideration of the criteria, so application of the evaluation criteria to inventoried resources is initially a technical exercise. The public must be provided an opportunity to review the draft results of the evaluation before a resource is designated on the resource list (this is discussed further in the next section). The rule provides that a planning commission or historic resource commission may complete the evaluation and determination of significance (that is, the rule does not require approval by elected officials).

Definition

"Locally significant historic resource" means a building, structure, object, site, or district deemed by a local government to be a significant resource according to the requirements of this division and criteria in the comprehensive plan. (OAR 660-023-0200(1)(f))

The result of this step is identification of "locally significant historic resources." These are the resources eligible for and encouraged to be designated on a resource list and therefore subject to the historic preservation ordinance.

Designating Locally Significant Historic Resources

You're almost done! Once a local government has identified locally significant historic resources, it may (and should) "designate" them by putting them on a resource list (if the property owner does not object – see the next section). It is only through designation that a local government can apply conditions to local development permits to promote preservation of the historic characteristics of the resource.

Definition

"**Designation**" is a decision by a local government to include a significant resource on the resource list. (OAR 660-023-0200(1)(b))

The rule (OAR 660-023-0200(6)) says that the resource list "must be adopted or amended as a land use decision."

This means that the local government must provide notice and an opportunity for public involvement according to state law and local codes. This will generally be a legislative amendment to the comprehensive plan or historic preservation ordinance, but any local requirements must be followed.

The local government must provide property owners an opportunity to withhold consent to designation of historic resources, as provided in OAR 660-023-0200(6)(b). While designation is never required, it is prohibited to designate a resource over a property owner's objection.

Owner Consent to Designation

State statute, and consequently the rule, provide that a property owner may "refuse to consent to any form of historic property designation at any point during the designation process." (See ORS 197.772(1), Appendix B, and OAR 660-023-0200(6)(b).) Listings in the National Register of Historic Places are exempt from this provision.

The "designation process" occurs under OAR 660-023-0200(6) following the determination of significance. A local government is prohibited from *designating* a locally significant resource (*i.e.*, putting it on the resource list) over the objection of the owner, but it is not required to remove a resource from the *inventory* because a property owner refused to consent to designation.

The rule specifies that, in order to exercise the owner consent authority, a property owner must object "on the public record." This requires oral or written testimony by the owner during the public designation process. A local government is not required to consider statements made only at the planning counter or in a letter to the editor to be an objection that would lead to the resource being left off the resource list. In addition, affirmative "consent" is not required – absence of an objection may be treated as consent. This places the obligation on the local government to ensure that a property owner knows that its property is under consideration for designation and that the owner is apprised of its rights and responsibilities.

Determining ownership will normally be straightforward for an individual building such as a house or store or a site such as a cemetery. Subsection (E) of the definition clarifies how to treat more complex, multi-owner resources such as a condominium or historic district. The definition makes no distinction between public and private ownership.

If a property owner withholds consent for designation of a locally significant resource, the local government is prohibited by OAR 660-023-0200(10) from approving a request to demolish or modify the resource for at least 120 days after the owner's refusal to consent to designation.

The rule treats an application for demolition or modification as a refusal to consent if the application is made while designation of the resource is under consideration. This is a change made in the 2017 rule amendments. Formerly, the rule requiring 120-day delay applied to requests for removal of a resource from a resource list (section (9) in the former rule); this was an erroneous implementation of the owner consent statute (ORS 197.772(2)), so the rule was corrected. *The 120-day delay provision in statute and rule is directly applicable to local government decisions regarding requests to demolish or alter a locally significant historic resource before the resource is added to the resource list.* That is, a local government is required to enforce the delay even if there is no such requirement in the historic preservation ordinance.

Definition

"Owner":

(A) Means the owner of fee title to the property as shown in the deed records of the county where the property is located; or

(B) Means the purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or

(C) Means, if the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner; and

(D) Does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature; or

(E) Means, for a locally significant historic resource with multiple owners, including a district, a simple majority of owners as defined in (A)-(D).

(F) Means, for National Register Resources, the same as defined in 36 CFR 60.3(k).

(OAR 660-023-0200(1)(h))

If a local government's historic preservation ordinance includes a 120-day delay of approval for requests to demolish or alter a resource during the process of *removing* the resource from the resource list, the local government should continue to enforce that delay provision until the ordinance is amended to remove it. The rule no longer requires such a delay, but the local ordinance will continue to apply until amended.

Local Historic Districts

Many local governments in Oregon have interpreted ORS 197.772(1) to require that all of the property owners within a proposed historic district must consent to formation of the district in order for it to be designated on

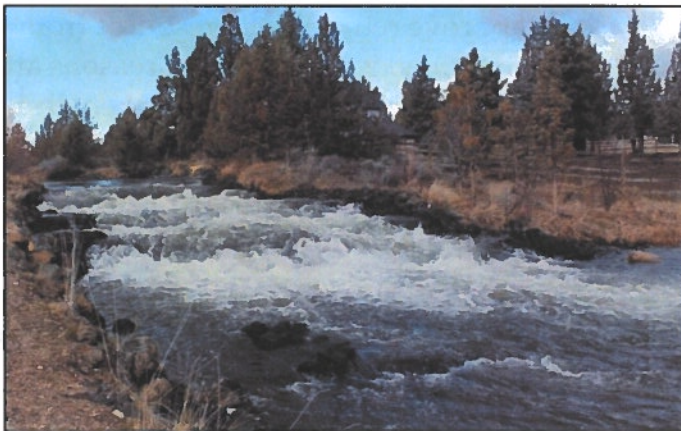


Irvington Neighborhood, Portland

a resource list. With the 2017 rule revisions and the new definition of "owner," a local government may consider designation of a district on the resource list with consent from a "simple majority" of property owners in the area. See OAR 660-023-0200(1)(h)(E). The rule provisions for inventorying, significance determination, and designation of a district are the same as for individual buildings, structures, and sites. That is, they are voluntary and subject to local criteria.

REMOVING A RESOURCE FROM THE RESOURCE LIST

The rule, at OAR 660-023-0200(9), provides two circumstances under which a local government may remove a locally designated resource from the resource list, thereby removing protection of the historic qualities of the resource. One is based on the owner consent statute and the other is a product of the rule. Both are land use decisions, meaning a local government must follow appropriate procedures regarding notice and public involvement. The rule does not provide the “appropriate procedures,” so a local government should use the quasi-judicial procedures contained in its zoning ordinance.



Pilot Butte Canal, Deschutes County

Rule Applicability

OAR 660-023-0200(9) went into effect with the rule's filing in February 2017 and applies directly to local government decisions. Local governments should make decisions that comply with this section regardless of what their local historic preservation ordinance provides.

When the Designation was Imposed

OAR 660-023-0200(9)(a) implements the owner consent statute (ORS 197.772(3)), as interpreted in *Lake Oswego Preservation Society v. City of Lake Oswego* 360 Or 154 (2016). The statute and rule require a local government to approve a request to remove a locally significant historic resource from the resource list if the designation was “imposed.” The statute dates to 1995, while the rule provisions guiding a local government decision under the statute were added in 2017. Formerly, with no rule guidance regarding what “imposed” meant, implementation of the statute varied around the state, and some resources may have lost protection unnecessarily.

The rule lists the circumstances that must exist in order for a local government to remove a locally significant resource from the resource list as required by the statute. If those circumstances do not exist, the only options for removing a resource from the resource list are provided in OAR 660-023-0200(9)(b). Most importantly, *an owner who acquired a property after it was designated as a historic resource on the resource list does not have the right to have the designation removed under OAR 660-023-0200(9)(a).*

When the Designation was Not Imposed

A local government may remove a locally significant resource from an adopted resource list according to OAR 660-023-200(9)(b), which provides a list of circumstances that warrant “delisting.” The list in the rule is the full list of acceptable circumstances. That is, a local government may not approve removal of a resource from the resource list for a reason not contained in the rule. The reasons are limited to the resource having lost its historic qualities, a mistaken designation, or a public safety concern. This section does not apply to resources listed in the National Register of Historic Places, as local governments do not control the contents of this federal list.

PROTECTING NATIONAL REGISTER RESOURCES

Beginning in 1996, the Goal 5 rule has deemed that resources listed in the National Register of Historic Places are “significant” for the purposes of

Definition

“National Register Resource” means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).
(OAR 660-023-0200(1)(g))

Goal 5. The 1996 rule used the term “historic resources of statewide significance” for these resources; this term was changed to “National Register resource” in the 2017 updates. The rule requires local governments to protect these resources and it spells out criteria and procedures in OAR 660-023-0200(8).

A local government is not required to list a National Register resource on a local inventory or designate it on a local resource list, but doing so is not prohibited. Adding a National Register resource to the local inventory is a common way to apply local protection that exceeds the base level specified in rule (see “Supplemental Protection,” below).

Note

The National Register of Historic Places is the official list of buildings, structures, objects, sites, and districts important to the nation’s history. The Register is maintained by the National Park Service and locally administered by the Oregon State Historic Preservation Office.

The State Historic Preservation Office maintains a list of National Register resources.

Rule Applicability

OAR 660-023-0200(8) went into effect with the rule’s adoption in January 2017 and applies directly to local government decisions. A local government must make decisions that comply with this section regardless of whether it has a historic preservation ordinance or what its existing ordinance provides. The rule requires local governments to update their land use regulations to conform to this section of the rule, but it provides no deadline by which the update must happen.

Base Level of Protection

The 1996 Historic Resources rule required local governments to “protect” historic resources of statewide significance (now called “National Register resources”). The rule formerly defined the term “protect” as “review of applications for demolition, removal, or major exterior alteration of a historic resource.” The rule did not include any review criteria or procedural requirements.

The 2017 amendments continue to require protection of National Register resources, and that protection is still a review, but the rule now provides more detail regarding what that review must entail and how the local government should carry it out. The rule is now also clear that a local government must perform the review even if there is no local ordinance mandating it. A local government may provide additional protection at its discretion.

OAR 660-023-0200(4)–(6) (inventory, significance determination, and designation) do not apply to National Register resource protection. The National Park Service effectively designated the resource by listing it in the National Register. Although section (6), “Designating Locally Significant Historic Resources” does not apply to National Register resources, a local government *may* need to include a National Register resource on its resource list in order to comply with its own historic resource protection ordinance if it wishes to apply supplemental protection *and* the ordinance requires designation in order to apply protection. In other words, local governments must comply with their existing ordinances.

OAR 660-023-0200(8)(a) provides a base level of protection from demolition or relocation of a National Register resource. Review of “major exterior modifications” is no longer included in the base level of protection, but the definition of “demolition” is somewhat broad.

When a city receives a request to demolish or relocate a National Register resource, it must conduct a public hearing on the request. The rule provides no specific requirements regarding the conduct of this hearing, so a local government should follow its normal procedures for a quasi-judicial land use hearing. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination from review, at their discretion.

Note

The definition of “demolition” (page 8) applies to all requests to alter a National Register resource. The definition includes modifications short of complete destruction. Changes that may be considered a “remodel” or “major exterior alteration” in some codes could qualify as a demolition under the rule.

The body that hears the request is up to the local government, but it will most likely be the historic landmarks commission – if the local government has appointed one and it has authority to make land use decisions – or the planning commission.

The rule provides a list of “factors” for the decision-maker to consider when hearing the request to demolish or relocate the resource. They are not “criteria” that must be satisfied. The local government must consider all of the factors and be able to explain why it made the decision that it made. The outcome is up to the local government. The rule specifies that the local government may approve, approve with conditions, or deny the request for demolition or relocation. A common condition would be to require a 120-day demolition delay to provide the interested parties an opportunity to consider alternatives to demolition.

Supplemental Protection

When a local government wishes to provide protection for National Register resources in addition to the base level described in the previous section, it may do so but must comply with the requirements in OAR 660-023-0200(8)(b). Similar to the requirements for the base level of protection, the rule requires that a local government conduct a public hearing and consider factors contained in the rule before it applies its historic preser-

vation ordinance to National Register resources, even if its ordinance does not require a hearing. (This subsection only applies to newly listed resources. Local protections applied to resources listed in the National Register that were in effect before the rule amendments became effective – February 10, 2017 – are unaffected.)



Harry A. Crosley House, Forest Grove

A hearing is required because the federal National Register listing

does not trigger regulations limiting the use of the property. The National Park Service encourages local protection of National Register resources that takes into account the historic context of the local jurisdiction and the values of the community. The Goal 5 rule requires an opportunity for public participation when a local government makes a decision on whether to regulate a property, as is the case with other land use decisions.

The supplemental protection mechanisms and criteria will need to exist in a historic preservation ordinance when the local government applies them to a resource. That is, conditions on approval of a request to alter a National Register resource (or on any permit, for that matter) must be limited to those needed to satisfy criteria in the ordinance.

Local governments have discretion to devise a program that treats all National Register resources uniformly or to apply tailored measures based on the particular attributes of the resource, or some combination of these approaches. For example, an ordinance may use a uniform set of regulations for individual houses placed on the National Register (after a hearing to decide whether to apply them), but tailor the regulations for a district depending on the qualities to be preserved.



Winn Barn, Umatilla County

CONCLUSION

Oregon's historic resources represent the broad diversity of the people and communities who shaped our state. Every community has unique historic places worthy of both recognition and protection. DLCD thanks our local partners for their continued commitment to the state's special historic places, and invites communities to establish preservation programs or further develop existing efforts.

For Further Information

Regarding implementation of the Historic Resources rule, contact the Oregon Department of Land Conservation and Development.

<http://www.oregon.gov/LCD>

Regarding the Certified Local Government and Main Street Programs, contact the Oregon State Historic Preservation Office.

<http://www.oregon.gov/OPRD/HCD>

APPENDIX A – OAR 660-023-0200

The Oregon Administrative Rules contain OARs filed through July 15, 2017

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

DIVISION 23

PROCEDURES AND REQUIREMENTS FOR COMPLYING WITH GOAL 5

660-023-0200

Historic Resources

(1) For purposes of this rule, the following definitions apply:

(a) “Demolition” means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition.

(b) “Designation” is a decision by a local government to include a significant resource on the resource list.

(c) “Historic context statement” is an element of a comprehensive plan that describes the important broad patterns of historical development in a community and its region during a specified time period. It also identifies historic resources that are representative of the important broad patterns of historical development.

(d) “Historic preservation plan” is an element of a comprehensive plan that contains the local government’s goals and policies for historic resource preservation and the processes for creating and amending the program to achieve the goal.

(e) “Historic resources” are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.

(f) “Locally significant historic resource” means a building, structure, object, site, or district deemed by a local government to be a significant resource according to the requirements of this division and criteria in the comprehensive plan.

(g) "National Register Resource" means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).

(h) "Owner":

(A) Means the owner of fee title to the property as shown in the deed records of the county where the property is located; or

(B) Means the purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or

(C) Means, if the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner; and

(D) Does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature; or

(E) Means, for a locally significant historic resource with multiple owners, including a district, a simple majority of owners as defined in (A)-(D).

(F) Means, for National Register Resources, the same as defined in 36 CFR 60.3(k).

(i) "Protect" means to require local government review of applications for demolition, relocation, or major exterior alteration of a historic resource, or to delay approval of, or deny, permits for these actions in order to provide opportunities for continued preservation.

(j) "Significant historic resource" means a locally significant historic resource or a National Register Resource.

(2) Relationship of Historic Resource Protection to the Standard Goal 5 Process.

(a) Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories, resource lists or programs regarding historic resources, except as specified in section (8). Local governments are encouraged to inventory and designate historic resources and must adopt historic preservation regulations to protect significant historic resources.

(b) The requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, in conjunction with the requirements of this rule, apply when local governments choose to amend acknowledged historic preservation plans and regulations.

(c) Local governments are not required to apply the ESEE process pursuant to OAR 660-023-0040 in order to determine a program to protect historic resources.

(3) Comprehensive Plan Contents. Local comprehensive plans should foster and encourage the preservation, management, and enhancement of significant historic resources within the jurisdiction in a manner conforming with, but not limited by, the provisions of ORS 358.605. In developing local historic preservation programs, local governments should follow the recommendations in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, produced by the National Park Service. Local governments should develop a local historic context statement and adopt a historic preservation plan and a historic preservation ordinance in conjunction with inventorying historic resources.

(4) Inventorying Historic Resources. When a local government chooses to inventory historic resources, it must do so pursuant to OAR 660-023-0030, this section, and sections (5) through (7). Local governments are encouraged to provide opportunities for community-wide participation as part of the inventory process. Local governments are encouraged to complete the inventory in a manner that satisfies the requirements for such studies published by the Oregon State Historic Preservation Office and provide the inventory to that office in a format compatible with the Oregon Historic Sites Database.

(5) Evaluating and Determining Significance. After a local government completes an inventory of historic resources, it should evaluate which resources on the inventory are significant pursuant to OAR 660-023-0030(4) and this section.

(a) The evaluation of significance should be based on the National Register Criteria for Evaluation, historic context statement and historic preservation plan. Criteria may include, but are not limited to, consideration of whether the resource has:

(A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;

(B) Significant association with the lives of persons significant to local, regional, state, or national history;

(C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;

(D) A high likelihood that, if preserved, would yield information important in prehistory or history; or

(E) Relevance within the local historic context and priorities described in the historic preservation plan.

(b) Local governments may delegate the determination of locally significant historic resources to a local planning commission or historic resources commission.

(6) Designating Locally Significant Historic Resources. After inventorying and evaluating the significance of historic resources, if a local government chooses to protect a historic resource, it must adopt or amend a resource list (i.e., “designate” such resources) pursuant to OAR 660-023-0030(5) and this section.

(a) The resource list must be adopted or amended as a land use decision.

(b) Local governments must allow owners of inventoried historic resources to refuse historic resource designation at any time during the designation process in subsection (a) and must not include a site on a resource list if the owner of the property objects to its designation on the public record. A local government is not required to remove a historic resource from an inventory because an owner refuses to consent to designation.

(7) Historic Resource Protection Ordinances. Local governments must adopt land use regulations to protect locally significant historic resources designated under section (6). This section replaces OAR 660-023-0050. Historic protection ordinances should be consistent with standards and guidelines recommended in the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior, produced by the National Park Service.

(8) National Register Resources are significant historic resources. For these resources, local governments are not required to follow the process described in OAR 660-023-0030 through 660-023-0050 or sections (4) through (6). Instead, a local government:

(a) Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;

(b) May apply additional protection measures. For a National Register Resource listed in the National Register of Historic Places after the effective date of this rule, additional protection measures may be applied only upon considering, at a public hearing, the historic characteristics identified in the National Register nomination; the historic significance of the resource; the relationship to the historic context statement and historic preservation plan contained in the comprehensive plan, if they exist; the goals and policies in the comprehensive plan; and the effects of the additional protection measures on the ability of property owners to maintain and modify features of their property. Protection measures applied by a local government to a National Register resource listed

before the effective date of this rule continue to apply until the local government amends or removes them; and

(c) Must amend its land use regulations to protect National Register Resources in conformity with subsections (a) and (b). Until such regulations are adopted, subsections (a) and (b) shall apply directly to National Register Resources.

(9) Removal of a historic resource from a resource list by a local government is a land use decision and is subject to this section.

(a) A local government must remove a property from the resource list if the designation was imposed on the property by the local government and the owner at the time of designation:

(A) Has retained ownership since the time of the designation, and

(B) Can demonstrate that the owner objected to the designation on the public record, or

(C) Was not provided an opportunity to object to the designation, and

(D) Requests that the local government remove the property from the resource list.

(b) Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist.

(A) The resource has lost the qualities for which it was originally recognized;

(B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing;

(C) The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.

(10) A local government shall not issue a permit for demolition or modification of a locally significant historic resource during the 120-day period following:

(a) The date of the property owner's refusal to consent to the historic resource designation, or

(b) The date of an application to demolish or modify the resource if the local government has not designated the locally significant resource under section (6). [Amended, effective 2/2018]

(11) OAR 660-023-0200(1)(a) and (1)(h) are effective upon filing of the rule with the Secretary of State.

(12) OAR 660-023-0200(8) is effective upon filing of the rule with the Secretary of State and applies directly to local government permit decisions until the local government has amended its land use regulations as required by OAR 660-023-0200(8)(c).

(13) OAR 660-023-0200(9) is effective upon filing of the rule with the Secretary of State and applies directly to local government decisions until the local government has amended its land use regulations to conform with the rule.

(14) OAR 660-023-0200(10) is effective upon filing of the rule with the Secretary of State and applies directly to local government permit decisions.

APPENDIX B — RELEVANT STATUTES

OREGON REVISED STATUTES

Chapter 197 — Comprehensive Land Use Planning I

197.772 Consent for designation as historic property. (1) Notwithstanding any other provision of law, a local government shall allow a property owner to refuse to consent to any form of historic property designation at any point during the designation process. Such refusal to consent shall remove the property from any form of consideration for historic property designation under ORS 358.480 to 358.545 or other law except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.).

(2) No permit for the demolition or modification of property removed from consideration for historic property designation under subsection (1) of this section shall be issued during the 120-day period following the date of the property owner's refusal to consent.

(3) A local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government.

Chapter 358 — Oregon Historical and Heritage Agencies, Programs and Tax Provisions; Museums; Local Symphonies and Bands; Archaeological Objects and Sites

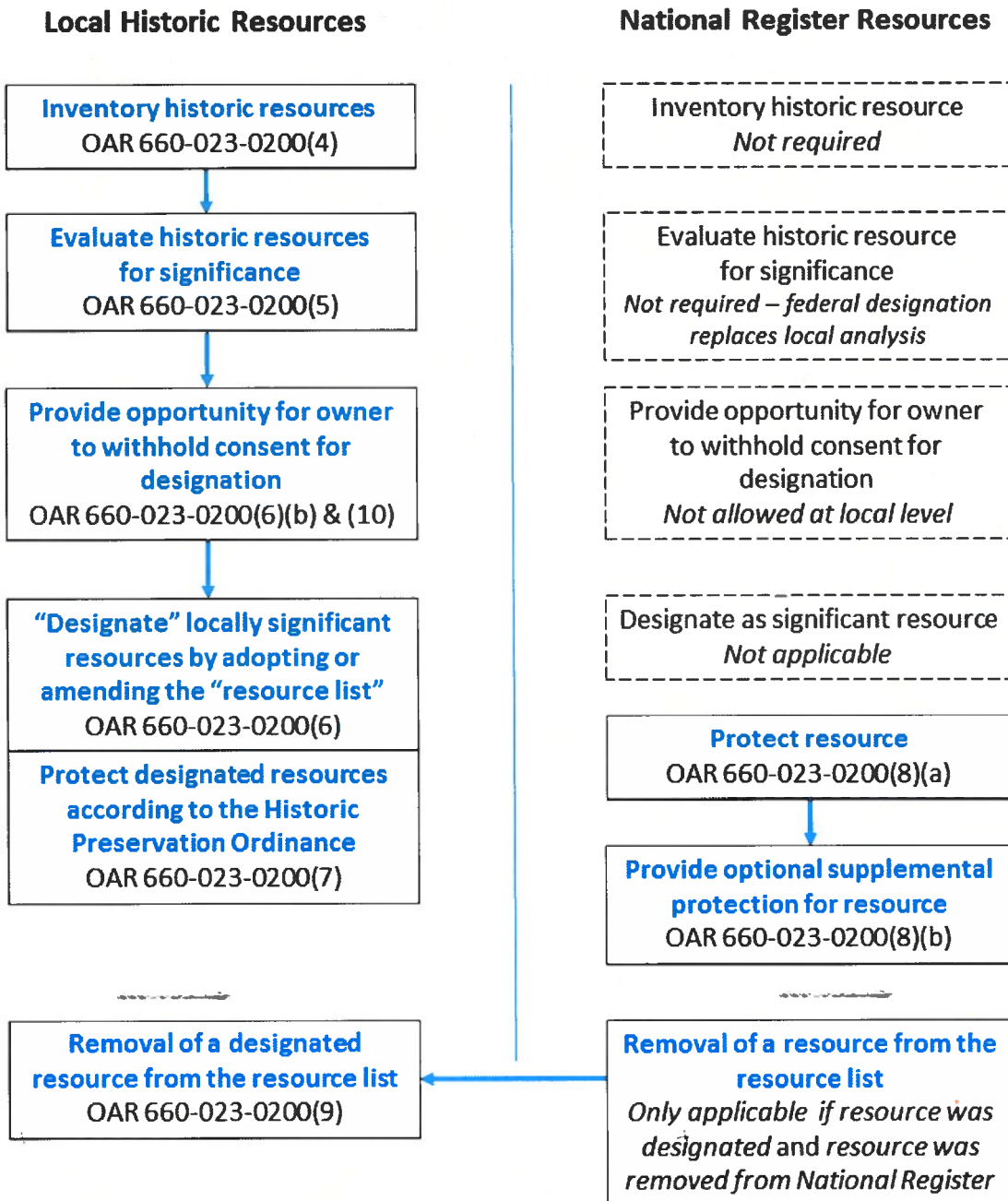
358.605 Legislative findings. (1) The Legislative Assembly declares that the cultural heritage of Oregon is one of the state's most valuable and important assets; that the public has an interest in the preservation and management of all antiquities, historic and prehistoric ruins, sites, structures, objects, districts, buildings and similar places and things for their scientific and historic information and cultural and economic value; and that the neglect, desecration and destruction of cultural sites, structures, places and objects result in an irreplaceable loss to the public.

(2) The Legislative Assembly finds that the preservation and rehabilitation of historic resources are of prime importance as a prime attraction for all visitors; that they help attract new industry by being an influence in business relocation decisions; and that rehabilitation projects are labor intensive, with subsequent benefits of payroll, energy savings and are important to the revitalization of deteriorating neighborhoods and downtowns.

(3) It is, therefore, the purpose of this state to identify, foster, encourage and develop the preservation, management and enhancement of structures, sites and objects of cultural significance within the state in a manner conforming with, but not limited by, the provisions of the National Historic Preservation Act of 1966.

APPENDIX C – GOAL 5 PROCESS FLOWCHART

OAR 660-023-0200 HISTORIC RESOURCES



Derrick Tokos

From: DLCD Plan Amendments <plan.amendments@dlcd.oregon.gov>
Sent: Tuesday, January 10, 2023 2:26 PM
To: Derrick Tokos
Subject: Confirmation of PAPA Online submittal to DLCD

[WARNING] This message comes from an external organization. Be careful of embedded links.

Newport

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: 1-CP-23

DLCD File #: [001-23](#)

Proposal Received: 1/10/2023

First Evidentiary Hearing: 2/27/2023

Final Hearing Date: 3/20/2023

Submitted by: dtokos

If you have any questions about this notice, please reply or send an email to plan.amendments@dlcd.oregon.gov.

NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, February 27, 2023, at 7:00 p.m. in the City Hall Council Chambers to review and make a recommendation to the Newport City Council regarding amendments to the "History" Element to the City of Newport Comprehensive Plan. The proposal amends the History Chapter of the Newport Comprehensive Plan to remove the designation of historical significance for the 1886 Building at 618 SW Bay Blvd due to its deteriorated condition. This will allow for the building to be demolished once its historic status is documented by the Lincoln County Historical Society (File No. 1-CP-23). The proposed legislative changes qualify as a major amendment to the Comprehensive Plan, which require findings that address new or updated information, and/or a change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information (ref: "Administration of the Plan" Section to the Comprehensive Plan). A major amendment may be pursued if one or more of the following conditions exist: (1) A significant change in one or more conclusions; or (2) A public need for the change; or (3) A significant change in community attitudes or priorities; or (4) A demonstrated conflict with another plan goal or policy that has a higher priority; or (5) A change in a statute or statewide agency plan. All applicable Statewide Planning Goals must be addressed. Implementation Strategies may be amended or replaced if there is: (1) A change in one or more goal or policy; or 2) A new or better strategy that will result in better accomplishment of the goal or policy; or 3) A demonstrated ineffectiveness of the existing implementation strategy; or 4) A change in the statute or state agency plan; or 5) A fiscal reason that prohibits implementation of the strategy. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from proponents, testimony from opponents, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be viewed or a copy purchased. Contact Derrick Tokos, AICP, Newport Community Development Director, (541) 574-0626, email address d.tokos@newportoregon.gov (mailing address above).

(For Publication Once on Friday, February 17, 2023)

New or updated information. B. Conclusions Amendment: 1) Change or addition to the data, facts, or circumstances of the case, which significantly affects a conclusion that is drawn for that information. C. Goal and Policy Amendments: 1) A significant change in one or more goals or policies; 2) A public need for the change; or 3) A significant change in community attitudes or priorities; or 4) A demonstrated conflict with another plan goal or policy; or 5) A change in priority; or 6) A change in a statute or statewide agency plan; or 7) All the Statewide Planning Goals. D. Implementation Strategies. Amendments: 1) A change in one or more goal or policy; or 2) A new or better strategy that will result in better accomplishment of the goal of the policy; 3) A demonstrated ineffectiveness of the existing implementation strategy; or 4) A change in the statute or state agency plan; or 5) A fiscal reason that prohibits implementation of the strategy. The amendments must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its policies, and the reasons which the person believes to apply to the decision. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be received and deliberation by the City Council. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the hearing. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department. Department Director, 644 S. Oregon Street, Newport, Oregon 97365. Note that this is a legislative public hearing process and changes to the proposed amendment may be recommended at the public hearing process and those changes may also be viewed or a copy purchased. Contact Doree Tokos, AICP, Newport Community Development Director, 644 S. Oregon Street, Newport, Oregon 97365, email address d.tokos@newportoregon.gov, mailing address above. F10, F17 53-17

PUBLISHED SUMMONS
- MOTHER
IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LINCOLN COUNTY
Juvenile Department In the Matter of JOSEPH N. TUBBS, A Child. Case No. 22JJ082223 **PUBLISHED SUMMONS - MOTHER**
IN THE MATTER OF THE STATE OF OREGON: A petition has been filed asking the court to terminate your parental rights to the above-named child under the provisions of ORS 419B.50, 419B.56 or 419B.58 for the purpose of placing the child for adoption. YOU ARE REQUIRED TO PERSONALLY APPEAR at the Lincoln County Court, 225 W. Olive Street, Newport, OR 97365, on February 28, 2023 at 8:30 a.m. for a hearing on the allegations of the petition, on April 6, 2023 at 10:00 a.m. Trial to admit or deny the allegations of the petition, and to personally appear at any subsequent court-ordered hearing. YOU MUST APPEAR IN PERSONALLY in the courtroom on the date and at the time listed above. AN ATTORNEY MAY NOT ATTEND THE HEARING IN YOUR PLACE. THEREFORE, YOU MUST APPEAR EVEN IF YOUR ATTORNEY ALSO APPEARS. This summons is published pursuant to the order of the circuit court dated January 25, 2023. The order directs that this summons be published once each week for three consecutive weeks, making three publications.

Philmont, Oregon, 1991
Patronage Capital Credits,
which include payments
authorized December
17, 2018 and March 28,
2023, will be redeemed
until March 28, 2023, after
which date any not so
redeemed will be forfeited
to the Cooperative. The
unclaimed 1991 Capital
Credits and Med Instruc-
tions on redeeming those
capital credits can be
found at www.pioneer.net/capitalcredits. The list is
also available at both of
our business offices locat-
ed at 570 S. Main Street,
Philmont, OR 97370,
and 575 W. Willow Street,
Waldport, OR 97394, or
by contacting Pioneer
Connect at 541-929-3335 or
541-563-3139, option
5, F17 75-17.

**NOTICE OF PUBLIC
HEARING**
**DEPOE BAY PLANNING
COMMISSION**
Wednesday, March 8,
2023, 6:00 p.m.
**APPLICATION FOR
DEVELOPMENT IN THE
COASTAL SHORELANDS
OVERLAY ZONE, AND
REQUEST FOR EXCEPTIONS
AND VARIANCE
CASE FILE #2-C3-PC-23**
APPLICANT: Owner -
Better Way, LLC Agent -
Gabe Hearn, Steelhead
Architecture REQUEST:
The applicant requests
Coastal Shorelands Over-
lay Zone approval to
construct a new, single-
family residence, with a
request for Exceptions from
the 40-foot "Area of Visual
Concern" setback, and a
Variance to reduce the
front-yard setback from
20' to a minimum of
10'. **APPLICABLE CRIT-
TERIA** Depoe Bay Zoning
Ordinance a) Section
152.028: Residential Zone
R-4 b) Section 152.039:
Coastal Shorelands Over-
lay Zone C-3 c) Section
152.058: Off-Street Park-
ing and Off-Street Load-
ing Requirements d) Section
152.074: Protection of
Coastal Headlands, Areas
Exceeding Aesthetic
Resilience e) Sections
152.170 - 152.173: Vari-
ances f) Sections 152.225 -
152.235: Development
Guidelines **LOCATION:**
The subject property is
located at approximately
130 N. Sunset Street,
and is further identified on
Lincoln County Assessor's
Map 09-11-05CA as Tax
Lot 15890.
APPLICATION MATERIALS:
Application materials,
documents and evidence
submitted by or on
behalf of the applicant are
available for inspection
at City Hall and can be
obtained upon a docu-
ments or evidence sub-
mitted by the applicant
after 20 days prior to the
hearing constitutes grounds
for a continuance
of the hearing. If any party
requests such a contin-
uance, Copies of the staff
report for this case are
also available for review
and may be purchased at
Depoe Bay City Hall, 570
S. Main Street, 10-15
days prior to the hearing.
TESTIMONY: Testimony
may be submitted in writ-
ten or oral form. Oral tes-
timony will be taken during
the public hearing of the
hearing. Failure to raise an
issue in a hearing, either
in person or in writing, or
failure to provide state-
ments/evidence sufficient
to afford the Planning
Commission an opportu-
nity to respond to the
issues precludes appeal
to the Land Use Board
of Appeals on that issue.
The comment period for
written testimony expires
Wednesday, March 8,
2023, 5:00 p.m.
Send letters to Depoe Bay
City Hall or email plan-
ner@cityofdepobay.org.
Our CONTACT: Kit Fox,
ALCP City Planner (541)
765-2361 x15, planner@
cityofdepobay.org **TIME/
PLACE:** Wednesday,
March 8, 2023, 6:00 P.M.,
Depoe Bay City Hall, 570
S. Main Street, Depoe Bay,
OR 97341. Mail
comments to: P.O. Box 8,
Depoe Bay, OR 97341.
Depoe Bay City Hall is
accessible to the dis-
abled. If special accom-

YOU ARE REPRESENTED BY AN ATTORNEY, IT IS YOUR RESPONSIBILITY TO MAINTAIN CONTACT WITH YOUR ATTORNEY TO OBTAIN THE BEST ADVICE YOUR ATTORNEY ADVISED OF YOUR WHEREABOUTS.

(2) If you contest the petition, the court will schedule a hearing on the allegations of the petition and you will appear personally and may schedule other hearings related to the petition and order you to appear personally. IF YOU ARE ORDERED TO APPEAR, YOU MUST APPEAR PERSONALLY IN THE COURTROOM, UNLESS THE COURT HAS GRANTED YOU AN EXCEPTION IN ADVANCE UNDER ORS 419B.918.

YOU MAY APPEAR, INCLUDING, but not limited to, telephonic or electronic means. An attorney may not attend the hearings(s) in your place.

YOUR COUNSELOR'S ATTORNEY: Sara Hernandez, OSB #063579, Assistant Attorney General, Department of Justice, 1162 Court Street NE, Salem, OR 97331-4400 ISSUED this 8th day of February, 2023.

Issued by: s/ Sara Hernandez, Sara Hernandez, OSB #063579, Assistant Attorney General, F17, F24, M3 72-03.

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN In the Matter of the Estate of: Elizabeth "Betty" June W. Bessces, Case No. 23PB00636, Notice TO INTERESTED PERSONS NOTICE IS HEREBY GIVEN that the undersigned has been appointed Personal Representative. All persons having claims against the Estate are required to present them with vouchers attached, to the undersigned Personal Representative, at 97391, within 4 months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceeding are to obtain additional information from the records of the Court, the Personal Representative or the attorney for the Personal Representative. For more information, contact the Personal Representative: PERSONAL REPRESENTATIVE: Gary Brawley, 931 NE 180th St., Shoreline, WA 98155

Phone: 206-718-1851 gnbrawley@1851@gmail.com

LAWYER FOR PERSONAL REPRESENTATIVE: David James Robinson OSB# 0948878, P.O. Box 10000, Main St./N. Toledo, Or 97131, Ph: 541-336-2257 FAX: 541-635-5880, david@osterlundlaw.com

F17, F24, M3 71-03

INVITATION TO BID (ON-LINE BIDDING)

Only on-line bids will be accepted for this project. Hard-copy bids will not be accepted.

ON-LINE bids for the 2023 East 2nd Street Improvements will be received on behalf of City of Yachats, Oregon ("Owner") by Westech Engineering, Inc., Project Manager, at Westech Engineering, Inc., until the bid closing time of 2:00 p.m. local time on Tuesday, March 21, 2023. Bids will be submitted on the online plan distribution system; (QuestCDN) which can be accessed at: Westech Engineering's website: atc.ihp/www.ihp.com/questcdn (the currently bidding tab). Only firms that obtain bidding documents from this online plan distribution system will have access to the online bidding system; while the bids can be accessed at Westech Engineering's website as noted above; or directly from QuestCDN: at www.questcdn.com. All firms wishing to submit a bid must submit an online bid and required bidding documents online and pay a \$30.00 bidding fee through QuestCDN. Bids will be opened and sealed sixty after the bid closing time, but written bid tabulations will not be finalized or released until after 4:00 p.m. on the first business day after the bid closing time. Disclosure Form, no later than 4:00 p.m. on the

Personal Representative:
 Attorney: Susan E. Snell
 OSB #8533536 Martin
 Lin, Elliott & Snell, P.C.
 P.O. Box 575, Tualatin
 Oregon 97062, 717, 2424
 OSB 81-03

NOTICE OF PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, February 27, 2023, at 7:00 p.m. in the City Hall Council Chambers to review and make a recommendation on the City of Newport Comprehensive Plan amendments to the "Historic Element to the City of Newport Comprehensive Plan. The proposed amendment is located in the Historic Element of the Newport Comprehensive Plan to remove the designation of historic significance for 1886 Building at 618 SW Bay Blvd due to its deteriorated condition. This will allow for the building to be demolished once its historic status is documented by the Lincoln County Historical Society (File No. C-19202). The proposed amendment is being presented as a major amendment to the Comprehensive Plan, which requires findings that address new or updated information, and/or new data, including the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information (ref. "Administration of the Plan" Section 1.1.1 of the Comprehensive Plan). A major amendment may be pursued if one or more of the following conditions exist: (1) A significant change in the use of public land; (2) a new public need, change, or priority; or (3) A significant change in community attitudes or priorities; or (4) A demonstrated conflict with another plan goal or policy; or (5) A change in a state or statewide agency plan. All applicable Statewide Planning Goals must be addressed. Amendments may be amended or replaced if there is: (1) A change in one or more goal or policy; or (2) A new or better strategy that will result in better achievement of a goal or policy; or (3) A demonstrated ineffectiveness of the existing implementation strategy; or (4) A change in the state or federal agency plan. If a fiscal reason that prohibits its implementation of the strategy. Testimony and evidence must be directed toward the request above. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include questions and answers from proponents, testimony from opponents, and questions and deliberation by the Planning Commission. Written testimony should be received by 3:00 p.m. the day of the hearing. Oral testimony may be given at the hearing or must be personally presented during testimony at the public hearing. Material related to the proposed amendment may be purchased at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing. Material may be purchased at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, (address above). Please note that this is a legal process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may be made to the proposed amendment. Contact Derek Tokos, AICP Newport Community Development Director, (541) 574-0626, email address d.tokos@ci.newport.or.us, or (address above) 717-82-17

PUBLIC NOTICE

Lincoln County is partnering with the State Marine Board to gather feedback to assist in the development of Don Lindy Park. The public hearing will be held February 28 from 4:00-6:00 p.m. at Waldport's Central Courthouse.

2/17/2

Sherri Marineau

From: Derrick Tokos
Sent: Friday, February 24, 2023 12:30 PM
To: Sherri Marineau
Subject: FW: Letter of intention for 618 SW Bay Blvd

Please add this information to the packet.

-----Original Message-----

From: Celeste McEntee
Sent: Friday, February 24, 2023 12:09 PM
To: Dylan McEntee
Cc: Derrick Tokos
Subject: Re: Letter of intention for 618 SW Bay Blvd

And our structural engineer did calcs like we mentioned and that was just the very best case scenario. At that point we didn't go any further knowing the condition of the building.

Also, another note to mention that when DEQ gets involved and asbestos abatement begins, if there is ever any instance in using the older materials again they have to go through full cleaning, back to DEQ before ever considered for repurposing. Our abatement contractor as well as demolition contractor see nothing on or in the building that can be repurposed. Again, none of these materials are original. The 1886 sign and original facade shape on the front was an illusion to making it look like its original materials. There are over 60 materials, layers thick that have asbestos. It's a very costly and time consuming job to remove and dispose of properly as you know.

Thank you,
Celeste McEntee

> On Feb 24, 2023, at 11:59 AM, Dylan McEntee wrote:

>

> Derek,

> I never did receive a full bid to do the work because the estimates I was getting were off the charts expensive. I was told work would only be done charging time and materials because to many unknowns. With the more than 8,000 sq ft building to plan on \$125-\$175/sq ft to bring up to code and replace everything that was either rotted or under engineered, which includes picking the building up to put it on a foundation. That was questionable if that could even be done considering the building is connected to the back portion of Mo's building to stabilize the structure. With that broad range we were looking at 1 to 1.4 million. The estimates to bring back to its former glory were ranging from \$250 sq. ft - \$300/ sq. ft which put full remodel costs range from 2 to 2.4 million. The estimates are in line with current building estimates, so I wasn't surprised, but with a building that size the total costs get big fast. Thats not taking into account that the building is uninsurable in its current state, so that leaves us very exposed in the interim.

>

> I hope this helps,

> Dylan

>

>> On Feb 24, 2023, at 10:45 AM, Derrick Tokos wrote:

>>

>> Have you had a chance to pull together additional information to provide context to the \$2,000,000 renovation figure included in your letter? We would like to be able to distribute it to the Planning Commission before their hearing on Monday.

>>

>> Derrick

>>

>> -----Original Message-----

>> From: Derrick Tokos

>> Sent: Tuesday, January 10, 2023 2:38 PM

>> To: 'Dylan McEntee' ; 'Celeste McEntee'

>> Cc: 'Celeste McEntee' ; Sherri Marineau

>> Subject: RE: Letter of intention for 618 SW Bay Blvd

>>

>> Hi Dylan and Celeste,

>>

>> The Planning Commission meeting went well last night, and they were comfortable initiating the process to amend the City's historic building inventory to delist the 1886 Building so that it can be demolished. As I mentioned, the plan amendment process will take a little time as there will be two public hearings, one before the Commission and another before the City Council. The State of Oregon also requires we provide them with 35-day advance notice of the first hearing (which I did today). The Planning Commission will hold its hearing on February 27th. This would be followed by a Council meeting on March 20th. Given the condition of the building, I believe that we can set the ordinance up for emergency adoption by the Council, meaning that it would be effective when approved.

>>

>> One ask from the Commission is that you provide additional information to back-up the \$2,000,000 renovation estimate referenced in your letter. Please send that over at your earliest convenience.

>>

>> Thank you,

>>

>> Derrick I. Tokos, AICP

>> Community Development Director

>> City of Newport

>> 169 SW Coast Highway

>> Newport, OR 97365

>> ph: 541.574.0626 fax: 541.574.0644

>> d.tokos@newportoregon.gov

>>

>>

>> -----Original Message-----

>> From: Dylan McEntee

>> Sent: Friday, January 6, 2023 2:57 PM

>> To: Derrick Tokos ; Sherri Marineau

>> Subject: Letter of intention for 618 SW Bay Blvd

>>

>> [WARNING] This message comes from an external organization. Be careful of embedded links.

>>

>> _____

>>

>>

>> Derek,

>> Here is the letter of our intention for the building at 618 SW Bay Blvd. The Fire Department is coming in on Monday to do a fire hazard plan and they indicated they most likely will be producing a letter describing the severity of the fire

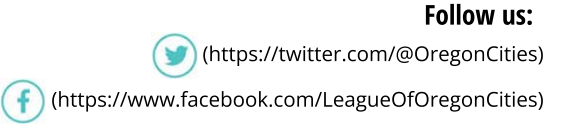
hazard it is to the neighborhood. As you may be aware we will not be able to be at the City Council meeting on Monday, so hopefully the letter is sufficient to explain our position.

>>

>> Best regards,

>> Dylan

>



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Oregon Land Use Planning Fundamentals for Elected Officials and Planning Commissioners

Speaker: Alice Cannon

The LOC is pleased to announce a virtual training opportunity for members: *Oregon Land Use Planning Fundamentals for Elected Officials and Planning Commissioners*. The training will be offered live via Zoom on Wednesday, March 15 from 6:00 p.m. to 8:00 p.m.

Join fellow elected officials in an interactive session to learn the fundamentals of Oregon's land use planning system. The course will cover the history of Oregon planning, procedures for land use hearings, and how to support planning staff in creating defensible findings for land use decisions. In addition, participants will learn how to actively engage in long-range planning and how to guide goals and projects to improve community livability.

Speaker Alice Cannon has more than 25 years local government planning experience. Most of her service is with Oregon's rural cities and suburban communities within the Portland metro area. She currently works for Wasco County in The Dalles, serving as the Long Range/Special Projects Planner. She holds a bachelor's degree from the University of Oregon, and a master's degree in urban and regional planning from the University of Colorado at Denver. Alice has served on the boards of the Oregon City/County Management Association (OCCMA) and Oregon City Planning Directors Association (OCPDA).

NOTE: Similar to other LOC virtual trainings, the recording will be available to purchase for a discounted price 2-3 weeks after the training. Live attendees can engage more with the presenter and ask questions.

Available Sessions

Title	Location	Date	Time	Cost	LGMC	Actions
2023 Oregon Land Use Planning Fundamentals	Virtual	03/15/23	6:00 PM - 8:00 PM	\$79-\$395		Register >

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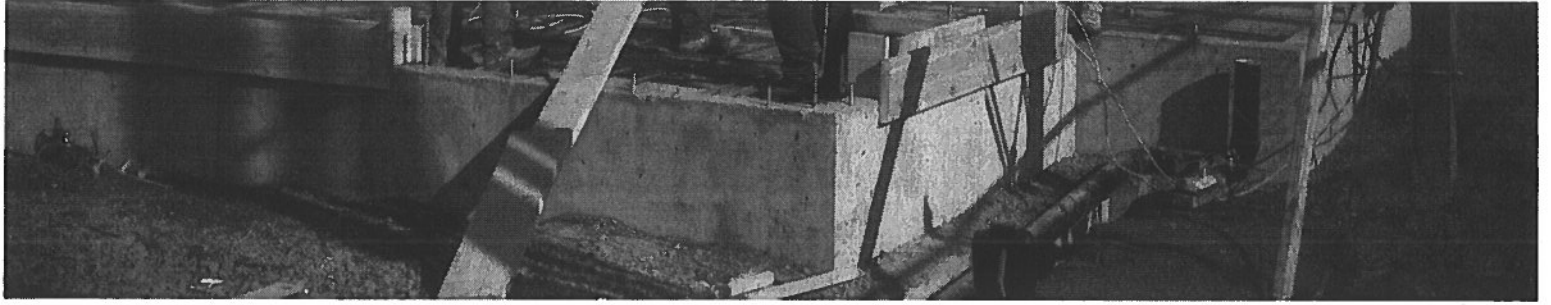
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Politics

Oregon lawmakers push 'transformational' bipartisan plan to speed housing construction by streamlining local rules

Published: Feb. 19, 2023, 8:00 a.m.





Construction is underway on a 54-unit affordable housing development for seniors in Cedar Mill, an urban unincorporated area of Washington County. The Christ United Methodist Church provided the land and leaders hoped to welcome tenants by fall 2022. But due to delays, it will not be ready for people to move in until the end of this year. Dave Killen / The Oregonian

NEW!

By **Hillary Borrud | The Oregonian/OregonLive**

Housing advocates and builders in Oregon have long complained that rigid land use mandates and lengthy approval processes stall construction of housing that residents desperately need and drive up its cost.

Fifty years ago, state lawmakers adopted a land use system that included the aspirational goal to “provide for the housing needs of citizens of the state.” Today, it’s clear the vaunted, only-in-Oregon approach has failed to deliver that. Oregon has the fourth highest rate of housing underproduction for its population in the nation according to a state report, and state and local leaders routinely describe the housing shortage as a crisis.

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Now the state’s handling of home construction could be headed for big changes under a bipartisan proposal moving fast through the Democratically controlled Legislature.

A proposal that lawmakers want to pass by mid-March calls for the state to annually estimate the amount of new housing at various price levels needed in each city with at least 10,000 residents. It would then hold cities accountable if they do not clear red tape or take other action to boost development to those levels.

Cities’ progress toward their goals would be published on a state dashboard for all Oregonians to see.

"It's going to be a really important tool for the state to have a clear picture of development barriers and dynamics, as well as it's going to be lifting up the innovative things cities are doing to encourage development," said Ariel Nelson, a lobbyist for the League of Oregon Cities.

Rep. Maxine Dexter, a Democrat from Portland who is chair of the House Committee on Housing and Homelessness and a chief sponsor of the bill, described the plan as "transformational" during a hearing Thursday and said it acknowledges state and local governments' responsibility to identify "at every level" where governments are getting in the way of housing construction and to remove those barriers.

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Dexter and Rep. Ken Helm, a Democrat from the urban unincorporated community of West Slope in Washington County, said the plan would be a major shift in Oregon's land use system, to deprioritize the long running focus on public process that can tie up projects in extensive approval and appeals processes. The first identified goal in the 1970s era state land use system is "citizen engagement," whereas housing is No. 10.

Helm, a land use attorney who has both represented private clients and decided land use cases as a hearings officer, says on his legislative website that he has "worked with local residents to stand up to development projects that would hurt our community."

Nonetheless, Helm said during a public hearing on House Bill 2889 Thursday that Oregon's current land use system "is probably overprioritizing public involvement to the expense of some of the other goals."

Under the latest version of the plan, the state Office of Economic Analysis would be required to produce annual housing production targets by January 2026 for all cities of at least 10,000, including both total home construction and housing affordable for people of specific income levels.

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The state housing agency would launch a public dashboard by January 2026 listing cities' housing production targets and their progress, or lack thereof, in meeting the goals. And Oregon's land use agency would work with cities on strategies to boost construction of new housing.

If any cities fail to make adequate progress or deliberately do not comply, the state could place them in a "housing acceleration program" that would start with an audit and lead to further remedies.

Sean Edging, a housing planner at the Oregon Department of Land Conservation and Development, said the earliest a city could theoretically be subject to state audits and consequences would be January 2025, if, for example, a city failed to meet a deadline to adopt a housing production strategy and did not work out an alternative deadline. However, Edging emphasized that "this would be unlikely" and suggested state interventions would more likely kick in by 2029.

California, which also has a severe problem with not building enough housing, passed laws in 2017 aimed at tightening accountability measures for cities and counties.

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Dexter said the state could also press cities to implement model ordinances — adopted voluntarily or imposed by the state — as well as anti-displacement measures to address gentrification and expedite local building approval processes. "The tools will be commensurate with the need," Dexter said.

The state housing agency would also be required to track, to the extent possible, a variety of housing equity outcomes, including cost burden and availability of housing units to own or to rent, and housing condition for various demographics, including race or ethnicity, disability status, English proficiency and age. Oregon Housing and Community Services would also track other measures including the risk of gentrification and displacement, segregation by race and accessibility of existing and new housing units.

Dexter said lawmakers plan to release an updated version of the plan this week and ultimately want to fold it into an omnibus housing bill they hope to pass early in the session. That bill will also contain initial housing spending — including \$130 million for rental assistance and homelessness services requested by Gov. Tina Kotek — and other housing policies including changes to the state's eviction protections, Dexter said.

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Michael Andersen, senior housing researcher for the environmental sustainability-focused think tank Sightline Institute, told lawmakers that the proposed accountability measures are “designed to shift the housing politics of local jurisdictions by taking the unacceptable but always tempting status quo off the table.”

The state's ability to force change will give political cover to city leaders who want to end the status quo but face “a thousand arguments” to keep existing rules and processes in place, he said.

Earlier this month, Lake Oswego city councilors voted against incentivizing the rebuilding of affordable and middle housing. Some of the five councilors who voted “no” said it would be unfair to exempt certain homes from strict new rules on major renovations and neighbors should not be forced to accept “nonconforming” projects, the Lake Oswego Review reported.

Dave Hunnicutt, president of the Oregon Property Owners Association, which advocates against land use restrictions, said cities have until now largely been left to their own devices to determine how much and what types of housing they need and the extent of local approval processes for that housing.

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“If this bill passes, the state's going to have a much bigger oversight role and really the only question is how much teeth are we going to vest with the state,” Hunnicutt said.

The layers and complexity of securing building approvals in Oregon varies greatly. "Depending on the jurisdiction, it ranges from doable to impossible," Hunnicutt said. "The applicant for development is typically required to submit multiple different applications and have them reviewed by multiple different departments and staff people at the city."

Hunnicutt said he appreciates Kotek's goal for Oregon to raise housing production to 36,000 units a year, but hitting that ambitious goal "might mean telling the cities we're going to have a very expedited process for approving development that doesn't let Karen who just moved into the house in the brand new subdivision right next to the vacant lot that's slated to develop ... to come in and say, 'I don't like this' and appeal to (the Land Use Board of Appeals) and the Oregon Court of Appeals and the Oregon Supreme Court for years."

Ernesto Fonseca, chief executive of Portland-based housing nonprofit Hacienda CDC, has also called for Oregon governments to streamline planning and permitting for housing.

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"This has been always a very, very slow process," Fonseca told a Senate committee during a hearing on housing issues in January, adding that approvals can take six months or longer. "It always is adding more and more to the equation."

As a specific example of a local land use regulation that reduces housing production, Fonseca cited a Troutdale mandate for two parking spaces for every home regardless of the likely need of residents. Home Forward, the Portland area's housing authority, reached a stalemate with Troutdale over the amount of parking required for a planned 94-unit affordable multifamily development.

According to the Sightline Institute, the parking spot issue became moot under new statewide climate change-focused rules adopted last summer. But cities including Troutdale are suing to overturn the rules.

In Cedar Mill, an urban unincorporated area of Washington County, the Christ United Methodist Church has been working for more than three years to build an affordable housing development for seniors that will have anti-discriminatory policies for people who are lesbian, gay, bisexual, transgender and queer.

A pastor told the Cedar Mill News two years ago that the congregation hoped to welcome tenants by fall 2022. Instead, "substantial completion of the development is now anticipated for November 2023," county spokesperson Melissa De Lyser wrote in a statement. The project is funded in part by the affordable housing bond that voters across the Portland metro area passed in 2018.

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De Lyser said the project faced a delay outside the control of county staff, when the developer discovered groundwater and fuel oil at the site and had to complete decontamination work. But county records also show it took 11 months for the 54-unit project to get all of the required land use approvals and building permits, including 11 permits and other sign-offs such as annexation into the Tualatin Hills Park and Recreation District.

Jurisdictions differ over which of them are most helpful to those trying to build desperately-needed affordable apartments.

In contrast to the more than half dozen separate permits required in Washington County, the city of Portland typically requires just two permits for a multifamily housing project: a commercial building permit and a public works permit, said Ken Ray, a spokesperson for the Bureau of Development Services.

But De Lyser, with Washington County, said that consolidating permits does not necessarily speed up approvals and pointed to a recent report commissioned by real estate interests that noted Portland "averaged roughly 581 days" to issue permits in the third quarter of 2022. Washington County took six months to issue all of the permits for the Cedar Mill church's housing project.

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An earlier version of House Bill 2889 would have put county governments on the hook for ramping up housing construction in unincorporated areas such as Cedar Mill within the boundaries of the Portland area regional government, Metro. Rep. Mark Gamba, a Democrat from Milwaukie, noted during a public hearing

that such areas contain large amounts of land ripe for housing development. Aloha is an example in Washington County and in Clackamas County, Gamba said, Oak Grove "would be the largest city in Clackamas County" by population if it were incorporated.

Edging, the state housing planner, said one of the "more glaring oversights" in the state's planning goal for housing "is that we have these large portions of areas that kind of function like cities but aren't planned for" under Oregon's land use system.

But after objections by local governments, lawmakers plan to leave urban unincorporated areas out of the housing accountability plan for now.

A major reason the housing accountability bill could move fast this session is that it makes no significant changes to the state's urban growth boundary system, which limits development outside of cities.

It remains to be seen whether lawmakers might offer cities financial assistance to boost staffing and help housing applications gain approval more quickly. Last year, a state report focused on how Oregon could catch up to its housing needs said the state needs to hire an additional 400 to 500 workers "to approve, permit, and inspect the additional units at the local level."

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Bend Mayor Melanie Kebler said in an interview the city has been working for years to boost housing construction including multifamily projects and the work is starting to bear fruit. Bend's rapid growth and need for housing motivated leaders to try innovative strategies, such as "removing some regulatory barriers and putting in place some really thoughtful planning efforts to help us fill in our (urban growth boundary)."

Kebler said Bend was the first city to implement the state's 2019 ban on single family housing zoning and the impact of that decision is now evident: More than half of housing units in the approval pipeline are multifamily. That helped Bend exceed the city council's goal of getting 1,500 homes under development annually. The city is also redirecting some property taxes to fund infrastructure that makes more land ready for development. "One of the big barriers to housing is having this infrastructure paid for and built," Kebler said.

Privately hired workers are also helping expedite paperwork, she said. "We also have directed staff recently if they need to contract out to third parties to get things moving through the system, we want them to do that," Kebler said. A city dashboard shows permit processing turnaround time. "So we have some transparency and accountability."

— Hillary Borrud; hborrud@oregonian.com

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